TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [redacted] 1919

No. [redacted]

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 23.

DEFENDANTS' TESTIMONY.

[redacted]

(26393)

VOLUME XXIII.

Index of Witnesses.

	Direct.	Cross.	Re-direct.	Re-cross.
George H. Milne	9309	9323	9335	9339
William B. Phillips	9340	9357	9359	9360
A. J. Bentley	9362	9368	9379	9380
Walter C. Hartman	9381	9388	.....	.....
Hans Hansen	9391	Waived	.....	.....
George W. Simmons	9401	9418	9460	9465
Julius Kahn	9468	9478	.....	.....
Charlemagne Tower	9509	.....	.....	.....
Howard H. Priestley	9513	9520	9542	9543
Albert M. Walty	9555	9562	9565	.....
Charles T. Woodward	9565	9569	.....	.....
J. Leonard Replogle	9576	9598	9609	9612
Joseph H. Chandler	9615	9616	.....	.....
F. C. Worthington	9617	9623	9643	.....
Ralph K. Weber	9645	9655	9686	.....
Theodore Neuhaus	9687	9691	9696	9698
John T. Garrett	9705	9708	9726	9727
Charles A. Woodruff	9727	9742	9754	9754
George E. Dean	9760	9764	.....	.....
James H. Channon	9771	9778	.....	.....
Arthur W. Glessner	9791	9795	.....	.....
William S. Horner	9801	9807	9811	9812
Arthur P. Bowen	9814	9818	9831	9834

ONE HUNDRED AND TWENTY-FIFTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Monday, December 8, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

GEORGE H. MILNE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Milne, where do you reside?

A. Kenosha, Wisconsin.

Q. What is your business?

A. We are engaged in the manufacture of steel and brass beds, springs, cots, chairs,—metal furniture I would call it.

Q. What is the name of your company?

A. The Simmons Manufacturing Company.

Q. To get some little idea of the extent of your business, what is your output of brass beds and steel beds?

A. Our output will average from, say, 600 to 1,200 a day. In steel beds we will average from probably 3,000 to 5,500 a day.

Q. Of steel beds you make from 3,000 to 5,500 a day?

A. Yes.

Q. What is your output in the other line you mentioned before?

A. We manufacture spring beds.

Q. How extensively?

A. Those will vary; perhaps 1,500 a day. The output varies materially with the seasons of the year.

Q. How old a company is the Simmons Manufacturing Company?

A. I cannot answer that question exactly. We were burned to the ground the year of the World's Fair at Chicago, and the present business has been practically built up since that time.

Q. How long have you been with the company?

A. Since 1907.

Q. What is your official position?

A. I am second vice-president. I have charge of purchases and sales.

Q. About what are the annual purchases of steel material by the Simmons Manufacturing Company?

A. In 1912 our consumption of steel products was approximately 38,000 tons. This year it will run perhaps 42,000 tons, or in that neighborhood.

Q. From what companies do you purchase the bulk of your requirements?

A. The bulk of our purchases is drawn from the Corporation's subsidiaries,—the Illinois Steel Company, the American Steel & Wire Company and the National Tube Company.

Q. In the way of raw material, so-called, that is, material from which you manufacture your product, will you state the classes of steel that you purchase, indicating the ones that you purchase from the Illinois Steel Company,—that is, the kinds you purchase from them—the kind you purchase from the Tube Company and the kind you purchase from the American Steel & Wire Company?

A. From the Illinois Steel Company we draw what might be called bar mill products; that is, steel angles, which are made from high carbon steel, rounds and flats, some of which are also made from high carbon steel, and also some soft rounds and flats, or what we call mild steel, soft steel.

From the American Steel & Wire Company we draw our supply of wire, our supply of helical springs, and a product that we use in making brass tube, called strip steel. We also buy rods from them.

MR. COLTON: Would you ask him what sort of rods, Mr. Severance?

By MR. SEVERANCE:

Q. What kind of rods?

A. Ordinary rods in coils.

MR. COLTON: Not wire rods?

THE WITNESS: Wire rods, yes, in coils.

From the National Tube Company we draw our supply of welded bedstead tubing.

By MR. SEVERANCE:

Q. How far from Chicago is Kenosha?

A. Fifty-two miles.

Q. How far from Milwaukee?

A. About 33 miles, I should say.

Q. It is between the two?

A. It is between the two.

Q. How far from Waukegan?

A. Seventeen miles from Waukegan.

Q. The American Steel & Wire Company have a large plant at Waukegan, have they not?

A. Yes, sir.

Q. Do you get your ordinary requirements, so far as you purchase from the American Steel & Wire Company, from Waukegan?

A. Yes; they serve us with all their line of products from Waukegan except strip steel, which comes from the Cleveland district.

Q. And from what mills of the Illinois Company do you secure their product which they sell to you?

A. Formerly very largely from Bay View works at Milwaukee, but now very largely from Gary.

Q. From what point does the National Tube Company ship to you?

A. Largely from Lorain, Ohio; they used to ship some from McKeesport, but they have discontinued that.

Q. Now, taking up the ordinary class of steel products, leaving out of the question for the moment the high carbon

steel—the ordinary steel products that you buy from the Illinois Steel Company; you spoke of certain soft steel?

A. Yes.

Q. What is the character of that? What is it used for?

A. Soft or mild steel is supposed to run about .10 to .12 carbon; the high carbon steel or rail carbon steel runs about from .40 to .70.

Q. What do you use the soft steel for?

A. We only use soft steel where it has to be bent; hard steel will not bend very readily, so we use soft steel where we have to bend it. That is why we buy rods.

Q. Which is the bulk of your requirements in that line; hard or soft?

A. Very largely hard. I do not care to say what percentage, but it is very much larger.

Q. Now, in the matter of soft or mild steel, as you call it, is that the ordinary steel rod?

A. Yes. Well, a steel rod such as we get would run, I should say, in carbon, very close to a soft steel bar.

Q. Who else makes those, aside from the Illinois Steel Company?

A. These rods?

Q. Yes; this soft steel.

A. The Wisconsin Steel Company.

MR. COLTON: Just a moment; are you limiting him to rods, now, or soft steel in general?

MR. SEVERANCE: Soft steel rods, the product that he buys.

THE WITNESS: A rod and a bar are different. A bar is made by the Illinois Steel Company on a bar mill and a rod is made on a rod mill, and we draw that from the American Steel & Wire Company. There is a difference between the two; so far as the carbon content is concerned, they are the same, perhaps.

By MR. SEVERANCE:

Q. What I had reference to, as I stated in my question, was—what is the soft steel product that you get from the Illinois Steel Company?

A. That is bars.

Q. And I ask what other concerns there are making and selling that in your territory.

A. The Wisconsin Steel Company; Jones & Laughlin; the Inland Steel Company; the Interstate Iron & Steel Company; the Lackawanna; the Cambria, and the Republic Iron & Steel Company. That would be representative competition in that line, I should think.

Q. Have you had quotations at different times since you went into the company in 1907 on this class of material from these different concerns?

A. Yes.

Q. In what way do you get quotations from the different mills?

A. Sometimes we solicit them direct. Of course you understand a buyer, a man who buys any important item, such as this is to us, is necessarily in daily touch with competition through personal contact and otherwise, and one gradually gets an idea of what the market is, what is a correct price for the product he is interested in, and then, when it comes to the time of purchase, it is very frequently a case of a personal visit. Very often these quotations are not confirmed in writing at all. That has been my experience with our company.

Q. Has it been your custom to frequently secure quotations from various concerns in the way you have stated?

A. Yes.

Q. And at the same time would you get quotations from the Illinois Steel Company on this product?

A. Yes.

Q. What has been the fact as to whether the quotations you have received from time to time from these various concerns have been uniform or variant?

A. We find a variation, a marked variation, invariably; I do not recall an instance where there has not been a variation.

Q. Now, take up the matter of what you call the high carbon steel, which you say you have purchased from the Illinois Steel Company; that, I understood you to say, was a much larger item with you than the soft steel?

A. Very much larger.

Q. Have you any idea of how much your annual tonnage in hard steel is?

A. I should say that in 1912—and what I say is necessarily approximate—but I should say in 1912 our total consumption drawn from the Illinois Steel Company must have been in the neighborhood of 12,000 to 14,000 tons; perhaps 12,000 tons would come nearer to it. Out of that certainly 10,000 tons was hard steel.

Q. How is that hard steel made?

A. Well, there are mills in our vicinity, for instance, like the Calumet Steel Company, the Republic Iron & Steel Company, and the Wisconsin Steel Company, that roll that class of steel from old rail. They buy that rail in the open scrap market and heat it and roll it into these sections. The Illinois Steel Company, as I understand it, roll our steel out of off-analysis ingots that they get from their steel rail operations; new steel.

Q. What does "off-analysis ingots" mean, to translate it into ordinary language?

A. Suppose they were rolling some rail for a railway on some definite specification, and their carbon or manganese or some other chemical content in this ingot did not come up to that specification, then the ingot is thrown aside and not usable for that particular order, and this class of tonnage gives them a chance to get rid of it profitably.

Q. You say the material they roll for "our"—I think that was your expression; you do not mean they roll it exclusively for you?

A. No.

Q. You mean the character you buy from them?

A. Yes. Hard steel is used by implement makers, largely, by the bed makers, and by other lines of manufacture.

Q. What has been your practice in the way of securing quotations on this hard steel?

A. I have done that by letter, by telephone request, and by personal visit and interview.

Q. What has been the fact as to whether the quotations

you have received from time to time from the various concerns from whom you have received such quotations, have been uniform or varying?

A. They are not at all uniform.

Q. They are not at all uniform?

A. No.

Q. And what are the names of the companies that quoted you, aside from the Illinois Steel?

A. Well, now, that is in the hard line, we have had quotations and have done business with the Republic Iron & Steel Company, the Calumet Steel Company, the Wisconsin Steel Company and the Inland Steel Company. I have had a very recent quotation from the Laclede Steel Company. They are located across the river from St. Louis, I believe.

Q. That is a new concern?

A. That is a new concern, yes. I might add the Interstate Iron & Steel Company also.

Q. Taking up next the matter of your tubes, from whom have you purchased your supply of tubes of different kinds? You said you had bought from the National Tube. Have you bought from anybody else?

A. Yes; we buy from the Elyria Iron & Steel Company. They are at Elyria, Ohio, just outside of Lorain. We have had the same class of material from the Danville Structural Tubing Company, of Danville, Pennsylvania; the Pittsburgh Tube Company, Pittsburgh.

Q. What kind of tubes have you bought from these concerns you have just mentioned?

A. Either butted or brazed. Butted is not welded; not closed.

Q. For what purposes are these butted or brazed tubes used?

A. We use the butted tubing very largely for filling upright spindles in our bed foots and heads.

Q. That is inside of the two corner posts?

A. Inside of the pillars, as we call them.

Q. Inside the pillars?

A. Yes, sir.

Q. Is that tubing something that is used for the same purpose for which the tube you buy from the National could be used?

A. Yes, sir.

Q. Which is the cheaper?

A. The butted tube is the cheaper.

Q. Have you at times used the other?

A. We would prefer to use the other altogether, because of the wall being continuous. It is welded pipe; therefore, there is no joint, and, therefore, when the bed is struck or twisted or jarred, the paint or enamel does not come off down the seam; and where butted tube is used there is always a little dirty black streak down the seam where the movement of the two walls cracks the enamel and spoils it; but competition in our line makes it necessary and we use it, and use quite a tonnage of it on that account.

Q. Do you also use the other in making beds?

A. You mean the brazed?

Q. No.

A. The welded?

Q. Yes, the welded.

A. We make some higher priced beds with the welded, but very few. Our welded is used more largely for the pillar stock, and for the cross rods, as we call them, into which these vertical uprights fit.

Q. You use this other for the cheaper beds?

A. Cheaper line; yes, sir.

Q. What concerns are there, other than the National Tube Company, from whom you have had quotations on the ordinary welded tubing?

A. The Pittsburgh Tube Company make a welded bedstead tube. Then the Elyria Iron & Steel Company make a brazed tube for pillar stock, that has a better surface than the National Tube, but it does not bend so readily. It is made out of this same old rail stock—high carbon stock—and the joint is brazed instead of being welded, so that when it is bent it very frequently opens, and then it is impossible for the bedstead maker to close it up again, so that people like Elyria

are bending those particular sections themselves and selling them to the trade bent, but they have to bend them on a very long radius. There is a long arch, which makes a less attractive looking bed, we think, than we can get out of the National pipe, which we bend ourselves, and we use the National pipe on that account.

Q. How do the quotations made to you by the different concerns—that is, the Elyria Iron & Steel on their product—I mean, their product that is used for this purpose that you have stated—and the Pittsburgh Tube Company and the National Tube Company compare as to being uniform or varying?

A. There is no uniformity. There is a wide variation on sizes. I would say that competition has been very keen between the National Tube Company and the Elyria Iron & Steel Company, particularly on the 1.9 size, which is a very large size in our business, and in the butted or ⅞ size, which is the largest size used in that particular style of tube, the competition has been such that the National cannot sell it. There is a difference right now, I should say, of $10 a ton between seven-eighths butted and seven-eighths welded, and on the one and nine-tenths there has always been a substantial difference.

Q. Take the wire products that you have bought from the American Steel & Wire Company and, in the first instance, take up wire and wire rods, leaving out your helical springs and strip steel. I will interrogate you about them later. Now, what is the amount of tonnage in wire and wire rods that you buy annually?

A. I would have to give those figures from memory, and they are necessarily inaccurate, but I should say that our wire tonnage last year must have run over 6,000 tons; rods probably 2,000 tons, or in that neighborhood.

Mr. Dickinson: Wire over 6,000 tons?

Mr. Severance: Yes.

The Witness: Rods, perhaps, over 2,000; approximately 2,000. That would give you a fair idea.

By Mr. Severance:

Q. What other concerns than the Steel & Wire Company, if any, have quoted you from time to time on wire and wire rods?

A. On wire we have had quotations from Jones & Laughlin, and a concern in Ohio; I think it is the Seneca Wire Company.

Q. That is Buffalo, is it not?

A. No; that is the Lackawanna Steel Company at Buffalo. I do not know any wire company at Buffalo. The Pittsburgh Steel Company on plain wire, the Youngstown Sheet & Tube Company on plain wires; on rods we have had quotations from Cambria, Jones & Laughlin, Grand Crossing Tack Company, Youngstown Sheet & Tube.

Q. How frequently do you secure quotations from these various concerns on wire?

A. Well, that would depend very largely on the extent of our information at the time we were buying. For instance, on rods when we made our last contract—I bought some outside rods, which were not furnished by the American Steel & Wire Company. We always post ourselves until we are satisfied that we understand what the market is.

Q. What do you mean by the market? If you get varying quotations from different people, what is the market?

A. The lowest price available.

Q. That is what you mean by the market?

A. Yes.

Q. What has been the fact as to whether these different companies quoting on rods and wire have quoted with uniformity or have quoted varying prices?

A. I have found a variation.

Q. Take the matter of helical springs; from whom have you purchased helical springs, if any one, outside of the American Steel & Wire Company?

A. From the Morgan Spring Company at Worcester, Massachusetts. We operate a small branch warehouse at Baltimore, among other places, and in connection with the branch, we manufacture a few springs, and we have drawn

some of our supply from the Morgan people for that particular operation.

Q. Do they quote you on the western business also?

A. We have had quotations on the western business also. I had quotations last July.

Q. How do the quotations of the Morgan Company compare with the quotations of the American Steel & Wire Company as to being identical or varying?

A. We have found them higher, in the West. They have a long freight haul against them.

Q. Is that stuff sold delivered?

A. Yes.

Q. How about Baltimore: you say you have bought some of your requirements for Baltimore there?

A. Yes; we have found it to our advantage at times to buy from them at Baltimore, and have done so.

Q. Are there any other manufacturers of these springs except the American Steel & Wire Company and the Morgan people, as far as you know?

A. They are the only people that we have ever done business with, to my knowledge.

Q. Do you know of anybody else making helical springs?

A. Oh, yes; I presume any wire company can make them. It is a very simple operation. But nobody has made a practice of furnishing the bedstead trade with them, aside from those two concerns, to my knowledge. They are sold very close. I think the business perhaps is unattractive.

Q. Take the matter of strip steel. From whom have you bought strip steel?

A. From the American Tube & Stamping Company, of Bridgeport; from the West Leechburg Steel Company, of West Leechburg, Pennsylvania. We have, I think, had lots from the Superior Steel Company, at Carnegie, and we have negotiated with the Weirton Steel Company, Weirton, Pennsylvania, who are just going in the business.

Q. And you have bought, as you stated, from the American Steel & Wire Company?

A. Yes, sir.

Q. Has there been any change in the last few years in this

matter of strip steel, the character you have bought, the method of producing it or using it?

A. We used to use what was called hot rolled, pickled and limed strips for making what we call our lock-seam brass tubing. That class of tubing is used in the manufacture of brass beds. This class of strip we bought entirely from the American Tube & Stamping Company, and from the West Leechburg Steel Company, and it was bought in what I would call short lengths, lengths of 162 inches, the standard length. We pointed that, then, and drew it into the tube, and had to cut off the point afterwards, which resulted in considerable waste, perhaps 18 inches waste, depending on the width of the strip that was drawn. Then the American Steel & Wire Company came into the market, and undertook the manufacture of a similar class of material, but with what I would call a cold rolled surface—given one pass—not highly cold rolled steel like a saw blade; it is equally smooth, but not as bright. That enabled us to substitute that class of steel, to use a lighter gauge, which was desirable from a weight standpoint, and since they have been in the market, we have used that class of steel as fully as we possibly could. In fact, we have used it altogether in the sizes they make.

Q. How long ago did the American Steel & Wire Company come into that market?

A. I should say approximately three years ago; perhaps a little longer than that.

Q. Where is that made? Where is the mill?

A. It is made in the Cleveland district.

Q. What, if anything, was designed in your factory for the purpose of using that?

A. When we substituted this class of material for the old, we had to design and equip our tube mill over again entirely. It takes a different class of equipment altogether to operate it.

Q. Did you get any advice or assistance from the American Steel & Wire Company in that connection?

MR. DICKINSON: I object to that as irrelevant.

THE WITNESS: They, in order to interest us further in the

steel and make it possible for us to use it, loaned us one of their engineers, a Mr. Harter, who made some drawings for us that illustrated what method of procedure, in his mind, on our part would enable us to work out a machine that would successfully handle that class of steel and enable us to make this tubing—not only the steel interlining, but with the brass covering put on, all in one operation. Then we make that tube in lengths of perhaps 50 feet, we buy the steel in coil as long as we can get it, and the brass in coil of a proportionate length; and the only scrap that we get out of the operation is the one pointed end, when the new coil is introduced into the machine; and we avoid all the steel scrap and all the brass scrap; and the brass was the big end of it.

By Mr. Severance:

Q. How much is that saving? Is that large or small?

A. It is very marked; it is a substantial saving. It makes a great difference to us.

Q. How did the American Steel & Wire Company sell this product when they brought it on the market, compared with the cost of the product that you had been using, purchased at West Leechburg and from other people?

Mr. Dickinson: I object to that as irrelevant.

Mr. Severance: As irrelevant, Judge?

Mr. Dickinson: I think so.

Mr. Severance: The comparative prices that they made? All right.

By Mr. Severance:

Q. Go ahead, Mr. Milne.

A. The price was cheaper, and the material was more desirable.

Q. Is the product that you get by the use of this strip as good as the one you got by the use of the other which was, as you say, higher priced?

A. It is better because it is sheared more accurately; we get a better joint, and it is lighter. Then, the surface is smoother, and we are able to use a lighter weight brass on it without showing the defects through the brass.

Q. Do you know whether the Steel & Wire Company had a mill previous to three years ago, or whenever it was that you commenced using this, for making this particular product, or did they build a mill for that purpose?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: They built a plant for that purpose.

By MR. SEVERANCE:

Q. I do not think I asked you the extent of your tonnage in that line per annum; how much is it?

MR. DICKINSON: Is this strip steel?

MR. SEVERANCE: Yes. (To witness) If you are able to state.

THE WITNESS: Possibly 2,000 tons; in that neighborhood.

By MR. SEVERANCE:

Q. What is your tonnage in helical springs?

A. Between 600 and 700 tons approximately; it might exceed 700 tons slightly per annum.

Q. You have stated that you give a large part of your tonnage to these various subsidiaries of the United States Steel Corporation; what is the reason you do that, aside from prices? Are there any other considerations?

A. We do that for three reasons. We do it on account of the excellent service that we get and the quality of the material that is furnished, and the prices, which are always fair and satisfactory.

Q. Has the location of the plants of the American Steel & Wire Company anything to do with their securing a large part of your tonnage?

MR. DICKINSON: That is objected to as leading.

By MR. SEVERANCE:

Q. (Continuing) You have stated that you get very fine service. To what do you attribute that fact?

A. We are very advantageously located. We are only seventeen miles from the wire mill, which is a great advantage in that we do not have to carry a large stock of material, which is a dollar and cents advantage. It saves us money, as we do

not have to carry such large stocks of material, and we get quicker service. There is no traffic interference.

Q. That is, the Waukegan Mill?

A. The Waukegan and the Bay View. Then the Corporation has always shown a very active interest in our business, and they try to serve us acceptably and have done so very satisfactorily. I will say this right here, that it is a very important thing to a manufacturer to have the material he needs when he needs it.

Q. Now, taking all these classes of material you have bought, as to which you have stated the prices quoted to you were varying, has there at any time been anything that has come under your observation indicating that the competition between the different manufacturers or mills in these different classes of goods has not been genuine and active?

A. No, sir.

Q. What is the fact as to whether the output of your factory or plant, whatever you call it, is the largest of any such manufacturer in this country?

A. Our output is probably equal to the combined output of our next eight competitors.

MR. SEVERANCE: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. Your bar mill products consist of hard carbon steel and soft steel?

A. Yes, sir.

Q. What proportion of your soft bar mill products do you buy of the Illinois Steel Company? Say for the year 1913, what portion of your soft carbon steel bar mill products have you gotten from the Illinois?

A. All of it.

Q. Now how many years back is that true?

A. Oh, let's see—probably since 1908.

Q. You became purchasing agent when?

A. In 1907.

Q. Where did you get your soft steel bars in 1907?

A. As I recall it we had a contract with the Illinois Steel Company in 1907 and we had another with the Inland Steel Company in 1907. Just what those covered I would not care to say, but my judgment would be that the soft end of it came from the Illinois Steel Company.

Q. Even in 1907, also?

A. The soft end now. You understand, the contract covered both classes of material.

Q. Since 1907 you have bought your soft steel bars exclusively from the Illinois Steel Company; is that correct?

A. Yes; I think that is a correct statement.

Q. Since and including 1907 you have purchased exclusively your soft steel bars from the Illinois Steel Company?

A. Yes, sir.

Q. From what different companies did you get quotations on soft steel bars in the year 1907?

A. I could not testify as to that, without referring to papers. I have some papers here in my pocket, if you care to have me look at them.

Q. I just want your memory.

A. I have no recollection at all.

Q. In 1908 from what different companies did you get quotations on soft steel bars?

A. The first half of 1908, as I recall it, we made no contracts whatsoever. Everything that we bought, both hard and soft steel, was bought in the shape of orders on the open market, and, if my memory serves me correctly, there was no hard steel whatever bought of the Illinois Steel Company during those six months.

Q. We are speaking simply of soft steel now.

A. I cannot recall. I would not care to testify to that from memory.

Q. Do you recall the price that the Illinois Steel Company gave you on soft steel bars in 1907?

A. No, sir; I cannot recall that.

Q. Do you recall the price that any of the other parties, if there were any other parties that quoted you, quoted?

A. No, sir.

Q. Would your answer be the same for 1908?

A. My answer would be the same for any year up to the present time; yes, sir.

Q. What tonnage did you buy of soft steel bars in 1907?

A. I can not tell you offhand.

Q. It was small, in comparison with your hard steel?

A. Very small, yes.

Q. And it is not a product which you pay nearly so much attention to, on account of the comparative smallness of the tonnage; is that correct?

A. That is probably true, yes.

Q. You are not as familiar with the market in that product as you are in the products in which you are more largely interested, are you?

A. Just as familiar with the market, yes.

Q. Well, take the year 1907; can you state as to any transaction on soft steel bars what the prices were and what relation the bids bore to one another?

A. I do not carry that in my mind at all, sir.

Q. And you do not for any one of these years?

A. No. I can give you that from memoranda, but I can not give it from memory. This is only one matter of a great many that I am interested in. I do not attach any particular importance to it, after it is closed and settled.

Q. Take hard steel bar mill products: what portion of your requirements have you gotten from the Illinois Steel Company since and including 1907?

A. Part in 1907; part in 1908, and, perhaps, all since that time.

Q. Is it your best recollection that you have purchased all of your hard steel bar products from the Illinois Steel Company since 1908?

A. That would be my recollection. There was one contract which might have gone over into 1909, but nothing later than that.

Q. Did you, since 1908, submit to other manufacturers of steel any given tonnage for them to quote prices on at any time? If so, state what time.

A. What do you mean by the word "submit"?

Q. Did you take up with the other manufacturers of hard

steel bar mill products the question of their submitting quotations to you on a given tonnage of said bar mill products?

A. Oh, yes; I have done that every season.

Q. You have done that how often?

A. Every season.

Q. Once a season?

A. Every season; every time we buy.

Q. How often did you buy in 1907?

A. We buy usually twice a year. We make two semi-annual contracts, as a rule.

Q. Take the year 1907; to what different manufacturers did you submit the question of supplying the first tonnage that you ordered for that year?

A. I can not remember that.

Q. Can you remember the prices of the quotations of any of the manufacturers?

A. No, sir.

Q. Or their relation to each other?

A. Well, the relation would be indicated by the source of our supply. In other words, the contractor who supplied our wants at that time was undoubtedly the low quoter, but I have not the figures in mind. You see, I came into the employ of our company, as I recall it, in April, 1907, and at that time—at the time I came in there were contracts in existence that I did not make, you understand.

Q. Yes.

A. That ran through.

Q. You do not know what the quotations on those were?

A. No; I could not tell you offhand.

Q. And without looking at your records, you could not tell what the quotations were on those that you purchased during 1907?

A. No; I do not carry those in my mind.

Q. And the same is true of each year?

A. Yes, sir.

Q. This high carbon steel; what is the price that you are paying the Illinois Steel Company this year for it? I mean, in hard steel bars; what is the price that you are paying them?

A. Is it necessary that I should answer that question? I prefer not to say what our contract price is.

Q. I would like to know the price, because I want to pass judgment on what kind of steel it is.

MR. SEVERANCE: Would you write it into the record?

MR. COLTON: Yes, he can write it in.

THE WITNESS: Yes; I will give it confidentially.

MR. DICKINSON: Well, of course, you can not give it confidentially, because it goes to the court.

THE WITNESS: That is all right, but I do not care to have that kind of information made public.

MR. COLTON: We do not enter into any specific agreement to consider it confidential, but it will not be made public.

MR. SEVERANCE: You have been very nice. You do not want to pry unnecessarily into or interfere with anybody's private business.

MR. COLTON: No.

By MR. COLTON:

Q. Hard steel bar mill products are sold delivered, are they, so far as you know?

A. They are in our case, anyway.

Q. And the quotations to which you refer are for delivered prices; is that correct?

A. Delivered prices; yes, sir.

Q. Would you give me the prices that you have paid the Illinois Steel Company from 1913 back and including 1908, so far as you can, for the different purchases that you have made of them?

A. I can take that off a memorandum and give it to you.

Q. No. I just want your memory.

A. I could not possibly do it from memory. I would be glad to do it, if I could.

Q. Can you do it for 1913?

A. Yes, I can do it for 1913.

Q. Then do it for 1913. Please also give the prices that you have paid the Illinois Steel Company for soft bars from 1913 back as far as you can.

A. Now, those are on contracts at present in effect. (Handing paper to Mr. Colton).

MR. COLTON: Put that into the record. (Handing paper to stenographer).

(The paper referred to is as follows:)

"1.40 cwt. delivered Kenosha, Wisconsin.
1.40 base Pittsburgh."

By MR. COLTON:

Q. What is the base price Pittsburgh on the soft steel bars that you purchased of the Illinois Steel Company in 1913?

A. The present contract is $1.40, Pittsburgh.

Q. How long a period does that contract cover?

A. That will run out the 1st of January.

Q. When was it made?

A. It was made probably last June or July.

Q. And for what tonnage?

A. My recollection is it was made for 8,000 tons.

Q. Was it made with a minimum of 8,000 tons or a maximum of 8,000 tons?

MR. SEVERANCE: Are you speaking of soft steel now?

THE WITNESS: He is talking about our contract. He did not mention either soft or hard.

MR. SEVERANCE: You mean both?

MR. COLTON: Yes; let the question cover both.

THE WITNESS: It is covered in one paper.

MR. SEVERANCE: The reason I asked was he said the annual consumption of soft was less.

By MR. COLTON:

Q. It was made in June?

A. Either June or July. I did not say June.

Q. And for your contemplated requirements for what period?

A. For no particular period. It is not made with relation to our requirements. It is simply a flat purchase. It was to be delivered between July last and January next.

Q. Between July last, 1912?

A. 1913.

Q. 1913?

A. Yes, and January next; six months.

Q. Did that cover your entire requirements, as a matter of fact?

A. As a matter of fact, that would probably more than cover them.

Q. During that period you did not purchase from any one else, did you?

A. No.

Q. And the previous contract was for how much tonnage?

A. I cannot tell you that.

Q. It was with the Illinois Steel Company?

A. Yes.

Q. Can you give the price?

A. No, sir; I cannot give the price.

Q. Do you know the prices that were quoted to you on soft steel in 1913, other than those quoted you by the Illinois Steel Company f. o. b. Pittsburgh?

A. No; I cannot remember that. I cannot remember it.

Q. Did you take up, when you let your contract in July last—is that the date?

A. When it was made. I do not remember the date.

Q. (Continuing) With what different companies did you take up the question of getting that tonnage?

A. You are speaking now of what class of steel?

Q. I am speaking of soft steel.

A. Both are covered in the contract

Q. I am speaking of soft steel bars. With what companies did you take up the question of furnishing you with soft steel bars?

A. I do not recall that. I did not take it up with any particular company in a formal way.

Q. Was that true for the preceding contract?

A. Probably not.

Q. Do you have any recollection about the preceding one?

A. Well, let me see: That would be in January a year ago. No; I cannot recall; I cannot remember.

Q. You are more interested in the delivered price than you are in the price f. o. b. Pittsburgh, are you not?

A. Well, the one means the other. The Pittsburgh price delivered is simply plus the freight.

Q. Do you pay the freight?

A. You are talking of soft steel, now?

Q. Yes; soft steel.

A. Yes; we pay the freight or we pay it in the price, one way or the other, and it makes no difference.

Q. Do you pay the freight as from Pittsburgh, do you mean?

A. Certainly, on soft steel.

Q. On all soft steel you pay the freight as from Pittsburgh?

A. It is either in the price or else we pay the freight. It depends on how we buy, whether we buy f. o. b. Pittsburgh, or whether we buy delivered.

Q. You say at times you pay a lump sum including the freight, to the manufacturer?

A. We frequently buy it delivered. We have bought it f. o. b. Pittsburgh.

Q. Then the manufacturer pays the freight?

A. If we buy it f. o. b. Pittsburgh, yes.

Q. And you do not know what he pays, of your own knowledge?

MR. SEVERANCE: I think you misunderstood the question. Mr. Colton asked if the manufacturer paid the freight, and you said, "If we buy f. o. b. Pittsburgh."

THE WITNESS: No. I beg your pardon. That is a mistake. If we buy f. o. b. Pittsburgh we pay the freight. If we buy delivered, the freight is taken care of by the manufacturer.

By MR. COLTON:

Q. You do buy soft steel bars delivered at times?

A. We have in the past. I do not recall that we have recently.

Q. At those times you do not know what the manufacturer actually pays in freight?

A. No; I have no knowledge of what he pays in freight.

Q. What is included in the bar mill products that we have been talking about as purchased from the Illinois Steel Company?

A. Angles, rounds and flats.

Q. Do rounds and flats have the same base price? Does the base price apply to all of these bar mill products?

A. In soft steel, now?

Q. Yes.

A. Yes.

Q. You figure it out by a system of extras?

A. That is it exactly.

Q. Take wire: What proportion of your wire have you bought from the American Steel & Wire Company since you became purchasing agent in 1907?

A. With some very small exceptions. I should say we have bought it all from them.

Q. What exceptions were there in 1907?

A. I don't remember in 1907. I could not testify as to that.

Q. Do you recollect whether there were any exceptions in 1907?

A. I do not recollect any.

Q. In 1908, what exceptions were there to the purchase of all of your wire from the American Steel & Wire Company?

A. I am perfectly willing to change my answer and make it all, if you care to. What we have bought outside has been negligible.

Q. Does that apply to wire rods as well as to plain wire?

A. Yes. We have bought, I recall, one lot outside.

Q. When was that?

A. That was just recently.

Q. In wire rods?

A. Wire rods, yes.

Q. From what company?

A. The Grand Crossing Tack Company.

Q. From what different companies did you secure bids in 1907 on wire rods?

A. We were not using wire rods in 1907.

Q. When did you begin to use wire rods?

A. I could only estimate that. I could simply guess at it. Possibly in 1909.

Q. You have no distinct recollection as to when you did begin to use them?

A. I have not a clear recollection, no.

Q. From what different companies did you get bids on wire rods in 1910?

A. I could not tell you by years; I cannot recollect that data.

Q. You do not recollect the relation the wire rod quotations that you did get had to one another, do you, for the year 1910?

A. I can give you that information in a general way, if you will take it.

Q. I want to know whether you remember it as to any particular transaction.

A. I could not as to years, no. This year I could testify about—1913.

Q. But you cannot as to any year before that?

A. I have not charged my memory with that kind of detail. It has not been necessary for me to do so.

Q. Take the year 1913: What contracts have you made with the American Steel & Wire Company for wire rods?

A. The last one was made in the neighborhood of July, probably, when we made our others, and the one prior to that was probably made last January, or the December preceding.

Q. And for the year 1913 have you made a contract with anyone else than the American Steel & Wire Company?

A. No.

Q. At what base price was the last contract for wire rods with the American Steel & Wire Company?

A. Let me see. Our present price, according to my recollection, is $29.40 delivered at Kenosha. That is equivalent to $26.00 Pittsburgh.

Q. About what date was that let?

A. Probably last July.

Q. Has not the American Steel & Wire Company paid the freight on this wire material?

A. The present contract price is a delivered price.

Q. Is that true of the preceding years as to wire and wire rods?

A. I would say yes.

Q. What was the base price on wire from the American Steel & Wire Company in the last contract, and the date of the last contract?

A. I would rather write that out for you. I prefer not to state it.

Q. All right, write it down. Write it down for the last contract and as many contracts back as you can remember it for.

A. I can only give it to you for one.

Q. That is the only price you carry in your mind?

A. That is the only one I remember, yes; and that is the base price on Acme wire.

Q. Is that the standard wire so far as your business is concerned, from which extras are figured?

A. No; but they are all in proportion. As a rule there is a uniform proportion between the different grades and classes of wire.

(The witness wrote on a slip of paper and handed to the stenographer the following words and figures:)

"1.58 Kenosha, base for Acme."

By Mr. Colton:

Q. Just give the Pittsburgh price also.

A. I could not give the Pittsburgh price. It is a delivered price.

Q. I suppose it is generally known to the trade that you have dealt exclusively with the American Steel & Wire Company in your purchase of wire rods, is it not?

A. Unquestionably, yes. We have never made any secret of it.

Q. What proportion of your helical springs have you bought from the American Steel & Wire Company since 1907?

A. Practically all of our requirements, except what we use at Baltimore.

Q. What portion of them have you used at Baltimore?

A. Very small.

Q. And of that you have bought a part from the American Steel & Wire Company?

A. Yes, sir.

Q. So that you have bought practically all of your helical springs from the American Steel & Wire Company?

A. Substantially all.

Q. And for the last three years you have bought all of your strip steel from the American Steel & Wire Company?

A. No, not all; from the time that they were able to supply this material and we were able to use it we have bought all the sizes that they made.

Q. And of those sizes you have bought them exclusively from the American Steel & Wire Company for those years; is that correct?

A. Yes.

Q. Take welded tube: what proportion of your welded tube have you bought from the National Tube Company?

A. One hundred per cent.

Q. Since 1907?

A. Yes.

Q. Does the National Tube Company make a brazed tubing?

A. No, sir.

Q. Does it make—what was the other kind of tubing you have had, butted tube?

A. It makes those same sizes, but does not make that class of goods.

Q. In welded tube, from what different manufacturers did you get quotations in 1907?

A. I could not testify as to 1907, sir.

Q. In 1908—any year?

A. Last year and this year we have talked with the Pittsburgh Tube Company, in 1912 and 1913.

Q. You say you talked with them?

A. Yes.

Q. Did you submit to them a definite tonnage that you might take from them?

A. I very seldom did that, in all the years I have bought goods. Sometimes we would say nothing about tonnage.

Q. You just have general conversations?

A. Just general conversations on that particular subject, and we both know what we are talking about and why we are talking.

Q. They were not making any quotations on any particular tonnage at that time?

A. We very seldom talk tonnage until we are ready to buy. The preliminary work is without reference to any particular tonnage. We do not know.

Q. When you have talked tonnage it has been with the National?

A. I didn't say so.

Q. I am just asking you whether that is not a fact.

A. You made a statement; you did not ask me a question.

Q. I now ask you whether it is a fact, when you talked tonnage on this welded tube, if it has not been with the National Tube Company.

A. I have talked tonnages with both; I have talked tonnages with Elyria on butted materials.

Q. I am talking about welded tube.

A. I do not want to put it the way you put it; I do not want my answer to take that shape.

Q. I will ask you again whether you have taken up specific tonnages with any other manufacturer and gotten bids from them in respect to specific tonnage, and if so, state the time and the prices.

A. I have talked specific tonnages with the Elyria Iron & Steel Company on 1-9/10 tube.

Q. Is that welded tube?

A. It is the equivalent of welded tube; it is what our competitors are using, a great many of them.

Q. I ask you if it is welded tube?

A. Then no, certainly not.

REDIRECT EXAMINATION

By Mr. Severance:

Q. You have stated that you have bought most of your requirements from these subsidiaries of the United States Steel Corporation. Have you bought at the prices they

quoted you in the first instance, or have they from time to time reduced their prices to meet competition?

A. I do not recall an instance where we have dealt on the original figure; it has always been a matter of negotiation.

Q. Do you mean you have paid them more than they asked you in the first place?

A. We have at times, yes.

Q. And what were the circumstances in that case?

A. We wanted to be sure of delivery.

Q. I mean, have you paid the Illinois Steel Company, for instance, more than they had asked originally?

A. No, not more than they asked for originally, invariably less.

Q. But when you said you had sometimes paid more, what did you mean by that?

A. I mean that we have paid the Illinois Steel Company, and we have paid the American Steel & Wire Company, prices that were in excess of their competitors, to be absolutely sure of deliveries.

Q. Has that happened often, or is that only occasionally?

A. That happens occasionally. Take a time like last June, July, August and September, when it is almost impossible to get deliveries of steel goods, when other companies, to my personal knowledge—if I can believe what I have heard—have diverted their product at a price and deprived their contractors of that tonnage. That is a very common practice in business, when the price has risen to a high level, and when steel is scarce and coal is scarce—and in regard to coal, that is characteristic in our part of the country—it is an advantage to us to be able to deal where we are sure of our source of supply.

Mr. Colton: I object to the witness making a statement on hearsay, and volunteered.

By Mr. Severance:

Q. Have the American Steel & Wire Company or the Illinois Steel Company or the National Tube Company at any time asked or received from you any premiums for delivering out of turn?

A. No, sir.

Q. Have they ever requested anything of that kind?

A. No, sir.

Q. How have the deliveries of these various subsidiaries been, with relation to the time that they agreed to make deliveries?

A. Remarkably prompt.

MR. DICKINSON: I object to that as not proper re-examination. Nothing was asked about it on cross examination whatever. It takes up unnecessary time and prolongs the examination.

By MR. SEVERANCE:

Q. You stated a moment ago in answer to counsel, as I understood you, when he was examining you with reference to certain wire goods, you stated "as a rule there is a uniform rule or proportion between different classes of wire." What did you mean by that?

MR. SEVERANCE: I think I quoted him correctly, did I not, Mr. Colton? That is the way I have it on my notes. I quoted him correctly in substance?

MR. COLTON: Yes, I think so.

THE WITNESS: What I meant by that is that as a rule, in our particular contracts anyway, there is a relatively uniform difference between Acme wire and Premier wire; there is a relatively constant relationship between Acme wire and bright basic link wire. There is a certain standard difference for tinned wires over black wires, and so on. That is what I had in mind.

By MR. SEVERANCE:

Q. That is, in your steel and wire contracts with the American Steel & Wire Company?

A. Yes.

MR. COLTON: Is not that the regular system of extras?

THE WITNESS: I think so, yes.

By MR. SEVERANCE:

Q. About when was it that you commenced to use this butted tube on any considerable scale?

A. Perhaps in 1911 we began using it more than we had before.

Q. Previous to that time what did you use for this filling that you now use the butted tube for?

A. Welded pipe.

Q. Of the same character as that made by the National Tube Company?

A. Yes.

Q. Had you bought that from the National Tube Company?

A. Yes.

MR. COLTON: What year is he testifying about?

MR. SEVERANCE: He says that previous to 1911 they used welded tube.

MR. COLTON: All right; I thought he said 1907.

By MR. SEVERANCE:

Q. You said 1911?

A. About 1911; that is my best recollection.

Q. When you came to the company in 1907, and for several years after that, you used this product of the National Tube Company for this filling, and for that you substituted this other product which you said you could buy cheaper from Elyria and others?

A. Yes, sir.

Q. You stated in answer to counsel, when he was interrogating you relative to strip steel, that you bought from the American Steel & Wire Company all of your requirements of the sizes that they make?

A. Yes, sir.

Q. Will you explain that?

A. When they began their operations, I think they made but three or four sizes that we used; that is, widths. Since that time they have been enlarging—they have been adding to their capacity, so that they are now rolling, I think, all but one size that we use, and that is a size nine inches and a little over wide.

Q. Are all these various sizes that they roll cheaper or

higher priced than the competitive article that you purchase from West Leechburg and others?

A. We have found them lower priced.

Q. And you are still buying from West Leechburg the size they do not roll, I understood you to say?

A. Yes; either them or the American Tube. We have a contract with one or the other.

Q. Either West Leechburg or the American Tube & Stamping?

A. Yes; I think it is West Leechburg.

Q. I thought that was what you testified.

A. Yes; that is my recollection.

Q. Where do you maintain warehouses for the distribution of your products?

MR. DICKINSON: I object to that as irrelevant.

MR. SEVERANCE: It should have come in in the first place. Go ahead and answer.

THE WITNESS: New York, Boston, Philadelphia, Baltimore, Pittsburgh, Cincinnati, Detroit, Chicago, St. Louis, St. Paul, Denver, Seattle, Portland, San Francisco and Los Angeles; fifteen in all.

By MR. SEVERANCE:

Q. And your factories are located at Kenosha?

A. At Kenosha.

Q. What about this factory in Baltimore? What is that?

A. To take care of trade that want odd widths of springs we build them at Baltimore, and we are building a few here in New York and a few in Philadelphia. That is a very small affair; for all practical purposes it might be omitted entirely.

MR. SEVERANCE: That is all.

RECROSS EXAMINATION.

By MR. COLTON:

Q. For 1913 what proportion of your total tonnage of strip steel did you get from the American Steel & Wire Company?

A. Perhaps we bought 300 tons outside.
Q. And what was your total tonnage?
A. In excess of 2,000 tons.

MR. COLTON: That is all.
MR. SEVERANCE: That is all, Mr. Milne.
MR. REED: Dr. Phillips.

WILLIAM B. PHILLIPS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Dr. Phillips?

A. Austin, Texas.

Q. What is your occupation?

A. I am director of the Bureau of Economic Geology for the University of Texas; it takes the place of a state survey.

Q. How long have you been director of that bureau?

A. Four or more years.

Q. What is your profession, Dr. Phillips?

A. I am a mining engineer.

Q. Had you been in Texas prior to this present term of office?

A. Yes, sir.

Q. At what time, and for how long?

A. I went to Texas in the year 1900, to take charge of the mineral survey of that State, and I kept charge of it until the spring of 1905, when it was discontinued by the legislature.

Q. So that your mining and geological experience in Texas covers, in all, a period of about eight years?

A. Yes. The survey was established in the year 1901, and discontinued in 1905.

Q. But you went there in 1900?

A. Yes, sir.

Q. Before the establishment of the survey?

A. Yes, sir.

Q. Between 1905 and 1909, Dr. Phillips, which seems to have been the period that you were not in Texas, at what were you engaged?

A. Well, after the survey was discontinued in the spring of 1905, I remained in Texas for about 18 months opening some quicksilver mines, so I did not leave Texas until the fall of 1906. Then I reopened my office in Birmingham, Alabama.

Q. What practice were you engaged in in Birmingham?

A. We had a chemical laboratory and an engineering office.

Q. And how long did you continue at that?

A. Until the spring of 1909.

Q. What studies have you made of the iron ores of the State of Texas?

A. I have given considerable attention to it for eight or nine years.

Q. During this period that you have been in these two positions?

A. Yes, sir.

Q. In the State of Texas?

A. Yes, sir.

Q. Had you made any study of the Texas ores prior to 1901? I neglected to ask you what your experience had been before 1901, Dr. Phillips. Would you please tell us briefly?

A. You mean in this line of business?

Q. I mean in geology and mining engineering, and chemistry.

A. Well, I opened an office in Birmingham in 1888, as a chemist and engineer on private account. We operated there for two years, when I went to the University of Alabama as professor of chemistry and metallurgy. I left that position to come into West Kentucky, about the year 1892, to open some mines and operate blast furnaces near Paducah, at

Grand Rivers. That enterprise failed, however. Then I went with the St. Bernard Coal Company, in Kentucky.

Q. In what year?

A. That was about 1892 or 1893, and managed the Campbell coal washing plant for them for quite a while. Then I came to New York City, as the chief of staff on the Engineering & Mining Journal, where I stayed for a couple of years, but I could not stand this climate. I went back to Birmingham as chemist for the Tennessee Coal, Iron & Railroad Company, and I was with them for four years.

Q. As chemist?

A. Yes, sir.

Q. What did you do between 1898 and 1900, when you went to Texas?

A. I went to Pittsburgh as editor of the American Manufacturer and Iron World, for two years. Then I went to Texas, and I have been there practically ever since.

Q. Dr. Phillips, I wish you would tell us what districts—what iron bearing districts in Texas you yourself have personally examined?

A. Well, if you will allow me to say, there are two great iron ore districts in that state, one known as the northeast or eastern part, and the other as the central region. I have been a great deal in both of those.

Q. Let us take up first, then, the northeast region.

A. I have been in the counties of Cass and Marion and Cherokee, particularly. I know more about those counties than some of the others.

Q. Will you describe the nature of the iron ore deposits in those counties, Dr. Phillips?

A. The deposits in those several counties differ very little as between localities. The brown ore will set in at the surface, or a very short distance below, and will go down to a depth of eight, ten or fifteen feet, perhaps, with seven or eight feet of overburden. Most of the overburden, however, is less than six feet in thickness.

Q. And of what character?

A. Sands and clays; generally the top layer is a sandstone of a few inches, or maybe a foot in thickness. Under that will

come a sandy clay or loam or earth, and under that the iron ore.

Q. Is this overburden difficult of removal?

A. No, sir.

Q. How does this deposit of iron ore range in thickness, Dr. Phillips, over these districts which you yourself have examined?

A. It varies a good deal, sir. I suppose if you take the average it would be in the neighborhood of 24 inches.

Q. Up to what thicknesses does it run? What is the thickest?

A. The greatest thickness I have ever seen was a trifle over four feet; to be true, it was 50 inches, the greatest one I have ever seen myself.

Q. Of what character is this ore?

A. There are three well marked kinds of ore in that country, and they differ markedly in their value.

Q. We are speaking of the northeast Texas deposit.

A. Yes, sir. We know of three different kinds of ore there; that is, the big nodular, we call it, where the lumps may be as large as an ordinary trunk, some of them, and then there is the nodular ore, where the size is that of a cricket ball or a baseball, and then there is a laminated ore that occurs also in the same country. That is the best of the three.

Q. As to the qualities of these ores, are they magnetites or hematites?

A. They are neither; they are limonites.

Q. Limonite is a hydrated hematite, is it not?

A. Well, it might be considered so, yes, sir, but it is well recognized as quite a different thing from a hematite.

Q. Wherein does the difference consist between a limonite and a hematite?

A. In its carrying combined water.

Q. About what percentage of combined water is contained in these northeastern Texan ores?

A. On the average about 10 per cent.

Q. That is, if I understand you, ten per cent. of the weight of this ore, after drying at 212 degrees Fahrenheit, is combined water, which is not driven off at that heat?

A. Yes, sir.

Q. What is the iron content of these ores when dried at 212 degrees?

A. If you will allow me, Mr. Reed, a moment: several years ago a shipment of about 2,200 tons of this ore was sent to the Birmingham district, and used, I think, by the Tennessee Company, and also by the Central Iron Company of Holt, Alabama.

MR. DICKINSON: We want to object to Dr. Phillips stating anything that comes from hearsay unless he stated that it is hearsay, and then we object to it as incompetent. In other words, we want him to discriminate between what he knows and what he has heard.

THE WITNESS: That ore assayed a little over 57 per cent. in iron.

MR. DICKINSON: It will save us trouble, Doctor, if you will indicate what you are telling of your own knowledge and what you have gotten through derived information. It will save us a good deal of questioning.

THE WITNESS: May I be allowed to state the source of my authority?

MR. DICKINSON: I want you to state the source of your authority, and then we will object to it as incompetent. Otherwise I shall have to take you over a long examination.

MR. REED: I think I can forestall all that by bringing out those things that he personally knows.

MR. DICKINSON: Very well.

By MR. REED:

Q. Did you make these analyses?

A. No, sir; they were communicated to me by the manager of the Central Iron Company at Holt, Alabama.

MR. DICKINSON: Let me enter a general exception here to any testimony of Professor Phillips that is hearsay or derivative, and not as of his own knowledge, as being incompetent.

By MR. REED:

Q. Have you made analyses of these ores yourself, Doctor?

A. I have.

Q. You are competent to make them, as a chemist, are you not?

A. Yes.

Q. Tell us the result of some of the analyses that you yourself have made.

A. This last summer I was called on to sample and inspect a considerable shipment of this ore that was destined for Philadelphia. I spent several days in Marion County, where this ore was being loaded, and I sampled the ore on the cars that were loaded and from the wagons that were going to the cars, and from the ore piles from which the wagons were deriving their ore.

Q. What results did you get?

A. The average was about 54 per cent. in iron, on a dry basis.

Q. Do these ores carry much free moisture?

A. No, sir; not a great deal. It will vary from eight to ten per cent., according to the weather, you understand.

Q. This was a shipment that was being made to Philadelphia, you say, that you analyzed?

A. Yes.

Q. When was that, Doctor?

A. It was early in August.

Q. Of this year?

A. Yes, sir.

Q. How does a limonite like this Texan ore, which contains about ten per cent. of combined moisture, compare for furnace use with a hematite containing a higher iron content, and, of course, no combined moisture?

A. There is practically not much difference between them, because the combined water is taken out in the upper part of the furnace. Still, the ore has to be made red hot before that water will go out, and of course that takes some fuel, necessarily.

Q. That driving off of the combined moisture occurs in the upper part of the furnace, I presume?

A. Yes, but if you will allow me, when that water is removed the ore is in very much better condition for reducing in the furnace than the average hematite is, because it is open and spongy.

Q. So that it does not require so much fuel to smelt in the lower part of the furnace?

A. No, sir.

Q. Take this shipment of ore which you analyzed, which ran 54 per cent. in iron and about 10 per cent. combined water; what iron content in the ordinary hematite would you require in order to get the metallurgical equivalent of that Texas limonite?

A. About 60.

Q. Do you know anything about the East Texas Brown Ore Development Company of Galveston?

A. Yes.

Q. What do you know about that, in regard to their activities in developing Texas ores?

A. I know they got me to go up there in August and inspect that third shipment and make an analysis, and go over a portion of the property.

Q. That analysis was made for them?

A. Yes.

Q. Are they doing work on the property now?

A. Yes.

Q. Do you know whether they are mining and shipping ore at the present time?

A. They are.

Q. To what points?

A. They are shipping to Port Bolivar and then to Philadelphia.

Q. Do you know of any other companies which are doing prospecting or mining work up there?

A. There are two others that are doing prospecting work.

Q. Who are they?

A. Johnson, Elliott & Company, of Dallas, Texas.

Q. Any others?

A. And a company whose proper name I do not know, but the chief man in it is D. M. Barringer, of the Bullitt Building, Philadelphia.

Q. Has he a syndicate of other men with him?

A. We have so understood.

Q. Has this Barringer syndicate taken any steps toward getting a furnace?

A. They have leased the State Furnace.

MR. DICKINSON: Doctor, are you telling things that you have personal knowledge of?

THE WITNESS: Judge, I do not know exactly what that means. I will have to ask you, please, to explain it to me.

MR. REED: Instead of that, Dr. Phillips, tell us just how you know these things, as you go along.

By MR. REED:

Q. How do you know they have leased this State Furnace?

A. I saw the papers that were executed in the Capitol Building in Texas, for instance.

Q. That answers my question. Have you been out at the State Furnace at Rust?

A. Yes.

Q. What steps are being taken toward rehabilitating that furnace, if any?

A. They are now spending money there for the purpose of putting that furnace in repair.

Q. Has this Barringer syndicate taken any of the State ore lands as well?

A. It is so understood.

Q. You do not know of your own knowledge about that, do you?

A. No, sir; except, if you will allow me, Mr. Reed, when they leased the State furnace they leased some ore lands that went with the furnace.

Q. You saw that lease, did you?

A. Yes.

Q. How many counties are included within this northeastern iron-bearing district?

A. There are about 17 counties involved.

Q. In how many of those counties have you been and examined the ore?

A. I have made particular examinations in Cherokee County, in Marion and in Cass.

Q. Have you examined the ores in any of the other counties?

A. In one other I made some examinations; that is the County of Gonzales.

Q. That is still in this northeastern district?

A. No, sir; that is west of Houston. It belongs to the lower belt.

Q. That is what you call the central district you spoke of before?

A. No; that is still brown ore.

Q. This Gonzales deposit is a sort of extension of the northeastern deposit?

A. To the southwest.

Q. Is that nearer the Gulf?

A. Yes, much nearer.

Q. What railroads are there through this northeastern region?

A. The Missouri, Kansas & Texas goes through it; the International & Great Northern; the Gulf, Colorado & Santa Fe; the Texas & New Orleans, and in part, the Cotton Belt.

Q. Is any one of these railroad companies affiliated with the Atchison, Topeka & Santa Fe?

A. I can not speak of my personal knowledge, of course, but the Gulf, Colorado & Santa Fe is supposed to be.

Q. The Atchison, Topeka & Santa Fe itself does not tap the territory, does it?

A. No.

Q. Have you made an estimate of the quantity of this brown ore that is tributary to these railroads that you have mentioned, which in your judgment is available for commercial use?

A. Those three counties mentioned, in Cherokee, Cass and Marion.

Q. What is your estimate of the quantity of that ore that is available in these three counties, Doctor?

A. That is a difficult question to answer, because the estimation of brown ore reserves is a very difficult matter, but I would say from what I have seen there that in those three counties there are 200,000,000 tons of ore.

Q. Have you made any estimate of the aggregate of the

brown ore that is available in this northeastern Texas district?

A. I have attempted some estimates from our own field work and reports that have been made, and I think that it is in excess of 500,000,000 tons.

Q. Now, does that include this Gonzales ore?

A. No, it does not.

Q. What can you tell us about those?

A. They have not been opened; there is hardly a pit in Gonzales County that has been sunk in that ore. The ore is exposed there in very large boulders and on the surface.

Q. What is the character of that ore?

A. Just the same as the others.

Q. It is a brown ore of the same general kind?

A. Yes, sir.

Q. Have you any idea of the area that is ore bearing in that Gonzales district?

A. While I was there a couple of days I went over about 200 acres of it.

Q. I suppose that it is utterly impossible to make any estimate of that tonnage?

A. No, sir; you could not.

Q. Before you leave these brown ores, have you any knowledge of a shipment of any of that ore to Waukon, Iowa?

A. Yes.

Q. What do you know about that transaction?

A. My remark may have to be a little bit long. Last spring I was asked to go down to the office of the Secretary of State in Texas, where I met Mr. John H. Kirby and the Secretary of State, and he asked me if I would go, on behalf of the State and Mr. Kirby, to Waukon, Iowa, to report upon the test of this Texas ore that was to be made there under the so-called Goltra process. After waiting a while until the ore could be loaded, I was notified to proceed to Waukon, and I went there in the month of April, and we made a test on the ore, 240 tons.

Q. Were you there while that test was being made?

A. I was there all the time.

Q. Did you see the ore put through the process?

A. Yes.

Q. What kind of material did you use; was it carefully selected ore, the best that could be found in this northeastern field?

A. It was not selected at all; it was loaded just as they came to it in the bank.

MR. DICKINSON: Were you there when it was loaded?

THE WITNESS: No, sir.

By MR. REED:

Q. Go ahead.

A. It had fragments of trees and rocks and stumps and leaves and everything else in it.

Q. What was the product like?

A. It was what we call a dehydrated limonite; it was a very excellent grade for the furnace. It averaged 54 per cent. in iron. The original ore averaged 32.

Q. That is, the average of the stumps and pine trees and dirt was 32 per cent. iron?

A. 32 per cent., yes.

Q. What was the physical quality of the product after it had been through the Goltra process?

A. It was found excellent.

Q. Porous?

A. Yes.

Q. Do you know anything about a projected concern called the Southwestern Steel Corporation; if so, what do you know about it?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: I know that there is a corporation of that sort in Houston, Texas, with offices in the Beatty Building.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

WILLIAM B. PHILLIPS,

the witness under examination at the taking of recess, resumed the stand.

DIRECT EXAMINATION (Continued)

By Mr. Reed:

Q. Do you know, in a general way, the plans of that Southwestern Steel Corporation for the establishment of a steel works?

Mr. Dickinson: I object to that as irrelevant.

The Witness: I have had considerable talk with one of the principal stockholders, and with the president of the company.

Mr. Dickinson: I object to that as hearsay.

By Mr. Reed:

Q. Is that the concern which has the construction of a plant at Texas City in mind?

A. Yes, sir.

Q. Your only knowledge of their plans is hearsay, is it, Dr. Phillips?

A. Yes, sir.

Q. Now, I wish you would describe this central district, of which you spoke, and tell us first in what counties the ore lies.

A. Principally in the County of Llano.

Q. What is the character of that ore, Dr. Phillips?

A. There is some brown ore in there; some hematite, and some magnetite.

Q. What examination have you made of those ores?

A. I was opening one of the properties there for about three months, and had charge of the prospecting work; I lived there.

Q. Can you give us any estimate of the area of the iron-bearing land in that district?

A. Only in a general way. It is supposed to cover several thousand acres of land.

Q. Have you examined the ore at different points?

A. Yes, sir.

Q. Did you make an analysis of any of that ore?

A. I did not make it myself; I had it made.

Q. And how does it run in iron content?

A. The seam that I sampled, which was under prospecting, ran 66 per cent. in iron.

Q. What was the size of that seam, Dr. Phillips?

A. When I last measured it, before I left the property, it was nine feet thick.

Q. And does the bed lie flat or is it vertical?

A. It dips with the enclosing gneiss there. It is in an igneous formation.

Q. What is the dip or pitch of the vein?

A. At that particular place, about 15 degrees.

Q. Is that being mined at the present time?

A. No, sir.

Q. Why not, if there is any reason for it?

A. Well, in the first place, it is 12 miles——

MR. DICKINSON: I object to that as irrelevant.

THE WITNESS: (Continuing) It is 12 miles from a railroad, in the first place. In the second place, it is over 300 miles from the seaboard.

By MR. REED:

Q. That is in central Texas, is it not?

A. Yes, sir.

Q. What railroad runs nearest to that deposit?

A. What is known as the Austin & Northwestern; that is a branch of the Sunset Central Lines.

Q. Have you made any estimate of the tonnage in that deposit?

A. No, sir.

Q. Or the total tonnage in that district?

A. No, sir.

Q. Is it possible with the information at hand to make any estimate of any value?

A. No, sir.

Q. Are any active steps being taken now for the development of that ore?

A. None at all.

Q. None that you know of?

A. No.

Q. Was that ore that ran 66 per cent. magnetite or hematite, Doctor?

A. A very strong magnetite.

Q. Strongly magnetic, was it?

A. Very.

Q. Coming back for a moment to this Texas City project, do you know what the rate on iron ore from the northeastern Texas deposits will be to Texas City?

A. Only what one of the shippers told me, sir.

MR. DICKINSON: I object to that as incompetent and hearsay.

By MR. REED:

Q. Is this one of the men who is actually expecting to ship?

A. Actually shipping now.

Q. Actually shipping now?

A. Yes, sir.

Q. What rate is that?

A. One dollar.

Q. Do you know what the rate on limestone is to Texas City?

A. No, sir; I do not.

Q. Where is the limestone located that they expect to use?

A. I do not know that precisely.

Q. Can you give us its approximate location?

A. There are two deposits in consideration; one in Limestone County and one in Williamson County, not far from Austin.

Q. Both in Texas?

A. Yes, sir.

Q. Do you know the rate from either of those limestone deposits to Texas City?

A. No, sir.

Q. From what source is it expected that coal will be obtained for this Texas City project?

A. From Alabama.

Q. Is there any coal in Texas?

A. Yes, sir.

Q. In bringing coal from Alabama, what route would be followed?

A. It would have to be barged across the Gulf from Mobile.

Q. Texas City is right near Galveston, is it not?

A. About eight miles across the bay.

Q. It is on tidewater?

A. Yes, sir.

Q. About how many acres of coal are there in Texas, or how many square miles, if you prefer to express it that way?

A. Of coal proper, some bituminous coal, a part of which will coke, about 11,000 square miles, and of lignite, which does not coke, about 60,000 square miles.

Q. Is that lignite available for fuel purposes?

A. Yes, sir.

Q. Without coking?

A. Yes, sir.

MR. DICKINSON: What kind of fuel purposes have you in mind? Domestic, do you mean?

By MR. REED:

Q. It can be used as steam coal, can it?

A. Yes, sir.

Q. It is not available for the manufacture of coke, is it?

A. No, sir.

Q. You told us, I think, that at one time you had charge of furnace operation in western Tennessee, or western Kentucky, I do not remember which; where was it?

A. I did not have charge of furnace operation. I was chemist for two furnaces that were built at Grand Rivers, near Paducah.

Q. Near Kentucky?

A. Yes.

Q. On what ores were those furnaces being operated?

A. Brown ore from western Kentucky.

Q. Is there brown ore in western Kentucky

A. Yes.

Q. Is there in western Tennessee?

A. Yes.

Q. Have you examined those deposits?

A. I have.

Q. What is their general location?

A. Those ores lie just east of the Tennessee River in the western part of Tennessee, particularly in Wayne County.

MR. DICKINSON: That is the western part of middle Tennessee.

THE WITNESS: Yes. It would be east of the Tennessee River.

MR. DICKINSON: But not in west Tennessee.

THE WITNESS: No, not geographically.

By MR. REED:

Q. In what part of Kentucky do the deposits lie?

A. Between the Cumberland and Tennessee Rivers, and east of the Cumberland.

Q. Are those now being used to any considerable extent, those Tennessee or Kentucky ores?

A. Yes; there are two or three furnaces working on them; one, I think, in west Kentucky. Then there is another one north of Wayne County, I should suppose 100 miles maybe; of furnace operation in western Tennessee, or western Kentucky ore, but those are the only ones I know of.

Q. What kind of ores are they?

A. Brown ores.

Q. Like the brown ores of the Alabama district?

A. Very much.

Q. Have you made any estimate of these Kentucky and Tennessee brown ores?

A. Yes; I went for a company to look at some ores in Wayne County several years ago. I spent some time there, and I think on that particular property which they controlled there was about 60,000,000 tons of ore.

Q. Where was that?

A. I have not been there in some years, and have not looked over my notes, and I will have to speak from recollection. Not far from the two furnaces they were operating, south of Dickson, Tennessee, there is a little road that runs south from Dickson——

Mr. Dickinson: (Interposing) Allen's Creek?

The Witness: (Continuing) Yes, sir; that was an old iron property and was then owned by a concern in Pittsburgh, calling itself the Tennessee Valley Iron & Coal Company, or some such name. Their headquarters are with the Empire Lumber Company in the Arrott Building, in Pittsburgh.

By Mr. Reed:

Q. Have you made any estimate of the ores in that region outside of this property?

A. No, sir.

Q. Can you give us any idea of the total tonnage that is available there?

A. No, only from general information.

Q. Are there any ores in Missouri?

A. Yes.

Q. Any quantity?

A. Oh, yes; there is a very good deposit of brown ore in southeast Missouri.

Q. Have you examined it?

A. In part, yes. I spent several weeks there a couple of years ago.

Q. Is that now being used?

A. No, sir.

Q. How far is it from the Mississippi River?

A. It lies around the town of Poplar Bluff, and from there to the river in a northeast direction.

Q. Is that a typical brown ore?

A. Yes.

Q. Containing about the same proportion of iron as the Alabama and Texas ores?

A. About the same.

Mr. Reed: You may cross examine.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Is there a furnace now being operated in the state of Tennessee, and how long to your knowledge has it been since there was one operated there?

A. I do not know, Judge, from my personal knowledge; only from hearing.

Q. Do you know now that there is a furnace in that part of Tennessee, in Wayne County, that is in operation?

A. No, sir.

Q. Or that there has been in one or two years?

A. No.

Q. Or three years?

A. I have not been there for several years.

Q. That ore is scattered about in pockets, is it not?

A. Yes.

Q. It is very hard to measure up and estimate, is it not?

A. Yes.

Q. Sometimes they will work in one pocket and entirely exhaust it?

A. Yes, sir.

Q. And have to potter around and find another and develop it?

A. Yes, sir.

Q. And that is true of all these brown hematites in that section?

A. Yes.

Q. Is that so generally with brown hematites?

A. Yes, with the exception of certain deposits in the northeast part of Texas, where they are more like blankets extending over the ground.

Q. They are more continuous?

A. Yes.

Q. Coming to the Texas ores of which you have spoken, in Llano County, you stated that with the data now at hand it is impossible to make any estimate, and you made rather a rough estimate of the ore in northeastern Texas. Well, you did not go all over that and make such an estimate as a person

would if he were going to recommend the purchase or put any money there?

A. No, sir.

Q. And the estimate you made was just a general one applying broadly to the whole section, what you saw of the part that you personally visited, was it not?

A. Yes.

Q. Is it not variable in places, even there?

A. Yes.

Q. There are places where the ore is washed out?

A. Yes, it is gone.

Q. And you cannot take an acreage where you have found ore and then apply that and get a general average for any county or any series of counties, could you?

A. It would be difficult to do so.

Q. Now, do you know of any steel that has been made out of Texas ore? If so, state the counties and the years in which it was made.

A. I do not know of any, sir.

Q. How many shipments do you personally know have been made out of Texas of Texas ore?

A. There again comes the question of personal knowledge. I was not there when it was shipped out. I did not see it shipped out.

Q. You have spoken of one that you know of or heard of?

A. Yes.

Q. Did you intend to speak of more than one in that direction? If so, how many did you speak of in that general way?

A. I have to give you information which I have just derived from an official of the company that was shipping the ore.

Q. I know, but how many shipments did that cover, and what tonnage?

A. At the time, only three shipments.

Q. What year was that?

A. That was this year.

Q. Do you know of any shipments back of this year?

A. I think somewhere about the first of the year.

A. One experimental shipment in the year 1910. I think that went out in June of that year, 610 tons.

Q. This Texas project that you spoke of, this Southwestern Steel Corporation; have they made any iron yet?

A. No, sir.

Q. Not a bit?

A. No, sir.

Q. And they have made no steel; that follows?

A. No.

Q. Dr. Phillips, you have been generally acquainted, I presume, with the iron and steel industry, in a broad, professional way, not as an operator, but as a student of conditions generally in the country?

A. Yes; but not especially during the last two or three years. I have been in other business.

Q. But, back of that time?

A. Yes, sir.

Q. Is it not a fact that from 1900 down to the present time the main basis of the great bulk of the steel industry of the United States has been dependent upon the Lake Superior ores?

A. I think that is true, sir.

Q. Is it not a fact that down to the present time the Texas ores have not had any effect upon the steel industry in this country?

A. I would say that it had none.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Judge Dickinson asked you if it would not be difficult to take an acre of iron-bearing land in northeastern Texas and apply its average content throughout a whole district regardless of the way that the ore had been eroded by the stream. I think I have stated his question correctly in substance. Did you make up your estimate of the tonnage of that district in any such way as that?

A. No, sir. In common with other engineers who have

been in that country, we assumed certain things that may, of course, or may not be true; I can not tell, but in estimating that tonnage most of us, I think, have agreed to take two feet of ore as representing about what we would find. It may be thicker; it may be somewhat thinner.

Q. Do you make any allowance for those parts of the country which, either because there never were ore deposits on them, or because it has been eroded, do not contain any ore to-day?

A. Yes. If you will allow me, I have a little information on that subject, but it may not come under the head of personal information. I was told by one of the officials engaged in prospecting some iron ores in Marion County——

MR. DICKINSON: We object to what he was told, as hearsay.

By MR. REED:

Q. Go ahead, Doctor.

A. I was told that they had acquired 12,000 acres of land, and they had put down between 800 and 1,000 pits, and had found that on the 12,000 acres there was 3,000 acres of ore-bearing land which would yield merchantable ore.

Q. So that, in making your estimate, you are only figuring on that percentage of the territory which would prove ore-bearing?

A. Yes; about one-fourth.

Q. And you are not assuming that every acre of that district contains ore?

A. Oh, it will not.

Q. And you did not make any such assumption in your estimate?

A. No, sir.

MR. REED: That is all.

RECROSS EXAMINATION

By MR. DICKINSON:

Q. Dr. Phillips, this two feet that you assume is an unproven hypothesis, is it not?

A. Judge, I have not myself seen the ore thinner than that.

Q. But there are places where it does not occur at all, are there not?

A. Yes, sir.

Q. The taking of these two feet as a hypothesis is purely theoretical, is it not?

A. Not wholly so, sir.

Q. Let us see how that is. Do you know about the acreage you applied that two feet to in making your estimate?

A. I have been over a considerable part of Cherokee County and the other two counties mentioned, but I have not been over every foot of that land, of course.

Q. What percentage of all the land that would be covered within this estimate of the several hundred million which you gave, in applying this standard, did you see yourself?

A. It is pretty hard for me to say, sir.

Q. What did you see?

A. Oh, I do not suppose, Judge, that I have seen, really, the hundredth part of the ore deposits there, as a matter of fact.

Q. And you have not seen the one-hundredth part of the territory upon which you have made this estimate, have you?

A. No, sir.

By Mr. Reed:

Q. Is there anybody that you know of that has any more information about the subject of the ores of Texas than yourself, Doctor?

A. No, sir; I do not believe so.

Q. Has there been any geologist that you ever heard of who has made an estimate of the contents of mineral bearing property that was able to see all the ore which he was estimating?

A. No, sir.

Q. Is it possible to see the ore until it is mined in that way?

A. No, sir; it is not.

By Mr. Dickinson:

Q. I understand you, then, Doctor, that you think that you have as good a knowledge on which to base the estimate that you have given, or perhaps better, than any one you know of who has been familiar with the Texas ores?

A. Yes, sir.

Mr. Dickinson: That is all.

A. J. BENTLEY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live, Mr. Bentley?

A. Niles, Ohio.

Q. What is your occupation?

A. I am the secretary and treasurer of the Ohio Galvanizing & Manufacturing Company.

Q. How long have you been secretary of that company?

A. Since its beginning, in 1901.

Q. Are you familiar with the purchases of steel that that company makes?

A. I am; yes, sir.

Q. How long have you been familiar with them?

A. Since the beginning, twelve years ago.

Q. About how many tons of steel does your company buy in the course of a year?

A. We buy approximately 6,000 tons of sheet iron.

Q. When you speak of sheet iron, do you mean sheet steel?

A. Sheet steel; yes, sir.

Q. What kind of sheets do you buy—black, annealed or galvanized?

A. The black sheets.

Q. Do you buy galvanized sheets as well?

A. We buy a few galvanized sheets; yes, sir.

Q. What is the product of your company, Mr. Bentley?

A. Our product is sheet metal specialties—ice cans, roofing, brick pallets.

Q. And what is a brick pallet?

A. A brick pallet is a flat piece of steel, or a formed piece of steel, that is used for the drying of bricks, instead of the wooden board which has been used up to within a few years ago.

Q. What is an ice can, Mr. Bentley? I think you said you made ice cans too?

A. Yes, sir. An ice can is the can in which artificial ice is frozen.

Q. Do you make steel furniture too, of any kind?

A. No, sir; we do not.

Q. You have been familiar, you say, with the purchases of steel that your company has made since your company began?

A. Yes, sir.

Q. When did you get well started in manufacture?

A. Why, we started to manufacture, I believe, in February, 1902.

Q. Has your business grown since that time?

A. Yes, sir.

Q. This figure of 6,000 tons a year represents the average purchases at the present time, does it?

A. Yes; it will average about 6,000 tons a year.

Q. Do you buy on annual contracts or from time to time as you need the material?

A. Well, we do not buy on annual contracts, but we buy at times on periodical contracts.

Q. Running over what space of time?

A. Oh, running over from three to four or five months.

Q. Before you let a contract of that sort, do you ask quotations from different manufacturers?

A. We do.

Q. Tell us the names of some from whom you get quotations, Mr. Bentley?

A. Well, there is the American Sheet & Tin Plate Com-

pany, and the La Belle Company, at Steubenville; what is now the Brier Hill Steel Company, of Youngstown.

Q. That used to be the Thomas Iron Company, did it not?

A. It used to be the Thomas Steel Company, and, prior to that, the Niles Iron & Sheet Company; also the Empire Iron & Steel Company; Stark Rolling Mill Company, and a number of others.

Q. Do you ever get any from the Youngstown Iron & Steel Company?

A. Well, that used to be the Youngstown Iron & Steel Roofing Company.

Q. I believe so.

A. Yes; we purchase some from them; not a great deal.

Q. The name of that concern has been changed from Youngstown Iron & Steel Roofing Company to Youngstown Iron & Steel Company?

A. I think so. I know it as the Youngstown Iron & Steel Roofing Company.

Q. Is that the same concern as the Youngstown Sheet & Tube Company?

A. No, sir.

Q. Do you ever get any sheets from the Youngstown Sheet & Tube Company?

A. Why, not recently.

Q. Do you get any quotations from them?

A. I do not think we have asked them for quotations for a couple of years.

Q. Do you ever get quotations from the DeForest Tin Plate Company?

A. Yes, sir.

Q. How about the Trumbull Steel Company?

A. And the Trumbull Steel Company, of Warren. They are a new concern.

Q. Of Warren, Ohio?

A. Yes, sir.

Q. How long have they been in the business of manufacturing sheets, as far as you know?

A. I think somewhere about the first of the year.

Q. Do you ever get any quotations from the Apollo Steel Company? Have you had any from them?

A. Yes; we have had quotations from the Apollo Steel Company.

Q. That is a new concern, too, is it not?

A. Yes, sir.

Q. How long have they been making sheets, if you know?

A. I think it is six or eight months.

Q. They started up this year, did they not?

A. Recently.

Q. Have you had any from Follansbee—any quotations?

A. Not for several years, two, three or four years.

Q. West Penn Steel Company?

A. We used to get some quotations from the West Penn Steel Company.

Q. The Allegheny Steel Company?

A. Yes; some from the Allegheny Steel Company.

Q. They are all manufacturers of sheets?

A. Yes, sir; manufacturers of sheets.

Q. In your district?

A. Yes, sir.

Q. In recent years about what percentage of your supply of sheets has come from the American Sheet & Tin Plate Company?

MR. COLTON: What do you mean by "recent years," Mr. Reed?

MR. REED: I meant not to be leading, Mr. Colton, and I will ask him after his answer to specify the time.

THE WITNESS: Why, I should judge in the neighborhood of two-thirds of it.

By MR. REED:

Q. And how long has that been the case, Mr. Bentley?

A. Oh, I should think five, six or seven years.

Q. Prior to that what was the condition of affairs?

A. Well, prior to that we bought some from them, and most of it from—I think, most of it prior to that from the Empire, and what was then the Niles Iron & Sheet Company.

Q. That is the company that is now in the Brier Hill Steel Company?

A. Yes, sir; that is now in the Brier Hill.

Q. If I understand you correctly, from the time you started business in 1902, up to about 1906, your purchases were principally from the Niles and the Empire companies, with some sheets bought from the American Sheet & Tin Plate?

A. Well, we bought some from the Youngstown Iron & Steel Roofing Company and from some other mills, but I think the principal amount was from those other two mills.

Q. It is only in the last six or seven years that your business has been thrown to the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. To its present extent?

A. Yes, sir.

Q. Now, how about these quotations that you have received, Mr. Bentley; have they varied or have they been uniform?

A. They have invariably varied.

Q. How long has that been so?

A. It has always been so?

Q. Ever since you started?

A. Yes, sir.

Q. In 1902?

A. Yes, sir.

Q. Has there been real and active competition for your business?

A. Yes, sir.

Q. Have these companies sent salesmen to your plant?

A. They all have.

Q. Mr. Bentley, do you buy any bars?

A. Yes, a few.

Q. About what tonnage annually?

A. Oh, I should judge in the neighborhood of about 400 tons of bars.

Q. Your purchases of bars are not an important part of your business, then?

A. No, sir; not so far as tonnage is concerned.

Q. Do you get competitive quotations before you give your orders there?

A. We do.

Q. From what companies do you usually get quotations?

A. Why, generally from the Republic and the Oliver Iron & Steel Company, and the Carnegie people, and sometimes from the Jones & Laughlin people.

Q. How do those quotations range? Do they vary or are they uniform?

A. Yes; there is a variance in them.

Q. Is there competition there for your business?

A. Yes, sir.

Q. How long have you been buying bars, Mr. Bentley?

A. Why, I should judge possibly about nine years; that is, to any extent.

Q. Prior to that time you did not buy so many?

A. No, prior to that we did not buy practically any.

Q. Have you observed the prices charged by the Steel Corporation's companies as contrasted with those of their competitors, to the extent of being able to give us any general statement of the course of prices that are charged you by the Steel Corporation?

A. I do not know, as I——

Q. (Interposing) Or, to put the question more plainly, do their quotations fluctuate as much or more or less than those of their competitors?

A. Well, I think that their quotations run—that their prices run comparatively evener than the quotations of what we would call the independents.

Q. Now, take it in busy times when prices are high: how do the Steel Corporation's prices in such times usually compare with those of their competitors?

A. My observation has been that the price of the American Sheet & Tin Plate Company on sheet steel has not varied as much as the price of what they class independent mills.

Q. Take it in good times; do their prices go up as high?

A. That has not been our observation.

Q. And in bad times how is it?

A. We are generally able to buy cheaper than from the Steel Corporation.

Q. In bad times?

A. Yes.

MR. COLTON: I did not hear whether he said that he could buy cheaper from the Steel Corporation.

MR. REED: For less money than from the Steel Corporation. You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. In the last five or six years it has been your experience that you can buy more cheaply from the independents than from the Steel Corporation?

A. No, I did not say that.

Q. In the last five or six years, in bad times?

A. Yes.

Q. During what periods have you purchased more than one-third of your sheets from independents, during the last five or six years?

A. I think we have practically purchased during the whole time in the last five or six years, about one-third of our requirements from them.

Q. Take this last year: what percentage did you purchase from the independents of sheets; in the year 1913, I am speaking about?

A. In the year 1913, I should judge about one-third, in round numbers.

Q. Is this last year a good year or a bad year, 1913?

A. During the latter part of 1913, that is, this part of 1913, it is not classed as a very good year among the steel men.

Q. Take the whole year.

A. I should say it was about an average year, take the whole year; the early part of the year was exceedingly good.

Q. What purchases did you make of sheet steel during the last six months; that is, black sheets?

A. We have bought several hundred tons in the last six months.

Q. Can you give it a little more definitely, in figures?

A. No, I can not; I could not give you exact data on that.

Q. In the last six months what proportion of them have you made from the American Sheet & Tin Plate Company?

A. Well, during the last six months of this year we have not made any extensive purchases of steel.

Q. What percentage have you purchased from the American Sheet & Tin Plate Company?

A. During the last five or six months?

Q. Six months, we will say.

A. That would run, say, from June or July?

Q. Yes; the 1st of July.

A. I think the most of our tonnage since the 1st of July has been from outside of the Steel Corporation.

Q. From whom did you purchase?

A. We purchased largely from the Brier Hill people.

Q. What tonnage did you get from Brier Hill?

A. I couldn't give you that exactly.

Q. When did you make a contract with them?

A. We haven't made a contract with them.

Q. How many different purchases have you made from them?

A. I should suppose 25, maybe, or more.

Q. When you made those purchases did you take it up with the other companies at that time?

A. Yes, we did.

Q. In each case?

A. Yes.

Q. What other companies did you take it up with?

A. Took it up with the Trumble Steel Company and the Stark Rolling Mill principally.

Q. Those two principally?

A. Yes.

Q. And you took all the 25 up with those two?

A. No, I would not say that we took all the 25 up with those two.

Q. Did you take up all the 25 with any one outside of the Brier Hill Company?

A. Well, in a general way, yes.

Q. I mean particularly.

A. I could not give you that now; I haven't that data before me.

Q. Did you get quotations from any one else at the time you were making the purchases, in regard to those particular 25 purchases?

A. I said approximately 25; I do not confine myself to that.

Q. As to each of those purchases, can you state, as a matter of recollection, that you got quotations from others than the Brier Hill Company in every case?

A. I think we got quotations in practically all purchases.

Q. But you would name the Trumble and the Brier Hill?

A. Yes.

Q. Any one else?

A. The Trumble, Brier Hill and Stark to a considerable extent.

Q. Can you name any others?

A. Yes, we had some quotations.

Q. I am referring to these particular purchases now.

A. I am referring to the general purchases during the last six months, as you said; we got quotations from the La Belle people.

Q. On how many of these different purchases did you obtain quotations?

A. I could not tell.

Q. Anyone else?

A. And some from the Apollo.

Q. How many?

A. I think we had it a couple of times with them, and I think once or twice with the Allegheny Steel Company.

Q. Now, for the first six months of this year what tonnage of black sheets did you purchase?

A. I think the tonnage we had in the first part of 1913 was purchased under contract prior to that time.

Q. Do you know the tonnage for the year 1913? I understood that that, for the last six months, has been small, and you could not state what it is. Now, what was the tonnage for the entire year 1913?

A. I say, in the entire year—I am speaking of our year, which runs from the 1st of September. That is our year.

Q. That begins the 1st of September?

A. Yes; it runs from September to September.

Q. Now, take September, 1912, to September, 1913: what tonnage of black sheets did you purchase, all told?

A. About 6,000 tons.

Q. About how many tons did you purchase from the American Sheet & Tin Plate Company?

A. I should judge in the neighborhood of 4,000 tons; 4,000 to 5,000 tons; anyhow, 4,000 tons.

Q. Take the preceding year, according to your year; that would be September, 1911, to September, 1912.

A. I should judge about the same amount; very close to it.

Q. The same percentage?

A. About the same percentage.

Q. Take September, 1910, to September, 1911: what percentage did you get from them?

A. As near as I can recall it, I should judge in the neighborhood of about two-thirds of our tonnage.

Q. During the period from September, 1910, to September, 1911, you bought about the same percentage from the American Sheet & Tin Plate Company that you had previously?

A. Yes.

Q. Was it your observation during that period that the price of the independents generally was lower than that of the American Sheet & Tin Plate Company?

A. I think there were times when it was lower, but I do not know as that was the condition during the entire period.

Q. Take the preceding year.

A. You are talking too far back for my memory on that.

Q. Can you state anything back of the year beginning September, 1910, as to what different companies you purchased your black sheets from as to what the bids were, and as to what the relation of bids was to each other?

A. I think during the year 1909 we purchased most of our tonnage from the American Sheet & Tin Plate Company.

Q. What do you mean by that? What do you mean by "the most of your tonnage"?

A. Most of it; most in tonnage; the larger portion.

Q. What in percentage?

A. In percentage, I should judge, nearly three-quarters of it.

Q. Take the year beginning September, 1908.

A. No; I would not give you that.

Q. Beginning with 1908, can you now state, as a matter of recollection from what companies you purchased your sheet steel?—

A. No, sir; I could not.

Q. (Continuing) —what quotations you got on your pur chases?

A. No, sir.

Q. Or what the relation was that they bore to each other?

A. No, sir.

Q. From what different companies did you get bids for your black sheets from September, 1902, to September, 1903? I specify those dates so as to correspond with your year.

A. From my recollectioon, I think that we bought the most of our tonnage during that year from the Niles Iron & Sheet Company.

Q. Do you now recollect from what other companies you got quotations?

A. No, sir; I do not, unless the Empire was in existence, and I am not sure whether it was or not at that time.

Q. Take the next year, your year, I mean, of corresponding dates: can you give the different companies that you got quotations from?

A. Not with any degree of certainty; no, sir.

Q. Do you know what the quotations were?

A. No, sir.

Q. Do you know what relation they bore to each other?

A. No, sir.

Q. Take the next year: that would be September, 1904, to September, 1905.

A. In 1903, if I am not mistaken, the Empire Iron & Steel Company and, I think, the Niles Company, was in existence, and during that year we bought most of our tonnage from the Empire Iron & Steel and from the Niles Iron & Sheet Company.

Q. And that is all the information you can give from recollection as to the different companies from which you got bids in that year?

A. That is all I can remember at this time.

Q. Take the year from September, 1904, to September, 1905: Can you give the different companies from whom you got bids?

A. I think that answer will apply to that year also.

Q. In regard to the relation that the bids bore to one another, would your previous answer apply?

A. Yes; I could not give that data; I have not got it.

Q. And the year from September, 1905, to September, 1906?

A. I think that is about the time we commenced to buy from the American Sheet & Tin Plate Company, as I remember it.

Q. From what different companies did you get quotations in the year that you began to buy from the American Sheet & Tin Plate Company?

A. Largely from the Niles Iron & Sheet Company, the Empire Iron & Steel Company and from the American Sheet & Tin Plate Company.

Q. Are those all the companies you can remember for that year?

A. No; we had quotations from others at that time.

Q. What others, if you remember them?

A. We had quotations from the Youngstown Iron & Steel Roofing Company, as I remember.

Q. What year is this that you began to buy from the American Sheet & Tin Plate Company?

A. You are speaking, now, of 1905 and 1906, as I understand it?

Q. Yes. Do you recollect that you got any quotations in that year from the Youngstown Iron & Roofing Company?

A. I do not believe there has been a year since we commenced business that we have not got quotations from the Youngstown Iron & Steel Roofing Company.

Q. Have you any recollection for that year in regard to it?

A. Only in a general way.

Q. Can you recollect any other companies from which you got bids in that year?

A. No, sir; I cannot say. I cannot give you anything with any degree of certainty.

Q. Do you now recall what the bid was of the Empire Company?

A. No, sir.

Q. Do you recall what the bid was of the American Sheet & Tin Plate Company?

A. No, sir; I do not. I could not give those prices now.

Q. Do you recall the relation of the bids to one another?

A. No, sir; I do not recall it now.

Q. Do you know what you paid the American Sheet & Tin Plate Company on its black sheets that year?

A. I could not give you that, no, sir; not now.

Q. What tonnage did you buy from them the first year you began to purchase from them?

A. I do not believe I could give you that.

Q. Was it as much as 2,000 tons?

A. I think it was; yes, sir.

Q. Was it as much as 3,000 tons?

A. No, I do not think we bought 3,000 tons from them the first year.

Q. What percentage of the whole was the percentage you bought from the American Sheet & Tin Plate Company the first year you dealt with them?

A. I do not believe I can answer that question.

Q. In 1901 what was your tonnage?

A. We commenced to do business in 1902.

Q. Then, in 1902 what was your tonnage?

A. I think in 1902 we used in the neighborhood of about 5,000 tons of steel.

Q. In 1903 you began from September——

A. Speaking of 1902, we commenced in February, 1902.

Q. Then you use from February on for your tonnage?

A. Yes, sir.

Q. From September, 1902, to September, 1903, what tonnage did you use of sheet steel?

A. During that period I do not believe that we used anywhere near that amount.

Q. Did you use more than 2,500 tons?

A. Yes; I should judge in that neighborhood.

Q. About 2,500 tons?

A. I should judge so.

Q. Then in 1904 your tonnage would be about 2,500 tons?

A. No, sir; I think in 1904 our tonnage increased. I think our tonnage increased during that year.

Q. You remember 1904 as a good year in the sheet steel business?

A. No, sir; I do not remember that as a good year.

Q. Do you remember it either way?

A. No, sir; I cannot at this date. I say that I do not remember the year 1904 as a good year or bad year.

Q. And you do not remember prices back in that time very much one way or the other, do you?

A. No, sir; I do not.

Q. How old are you, Mr. Bentley?

A. Fifty-three.

Q. Would your answers be practically the same for galvanized sheets as they have been for black sheets, as regards the prices for the different years, and the relation that the bids bore to each other?

A. Yes.

Mr. Reed: I object to that as not proper cross examination, and unfair in requiring the witness to go back over his whole direct and cross examination to pick out the matters of difference.

Mr. Colton: No. It only applies to the answers that he made to me. But I will take up the galvanized sheets by years.

By Mr. Colton:

Q. Take the year from September, 1902, to September, 1903: from what different companies did you get bids on galvanized sheets?

A. I do not think that we bought any during those years, and, if you are going to continue those questions down to the present time, I might say that there have been only a few years in which we have purchased galvanized sheets at all.

Q. Then you are not very familiar in general with the prices of galvanized sheets, are you?

A. Well, we make it.

Q. You make it yourselves?

A. Yes, sir; and I will say that our object in purchasing galvanized sheets was buying them when our own capacity for the manufacture of them was to its limit.

Q. In what years have you purchased galvanized sheets?

A. We purchased galvanized sheets in this last year and some the year before.

Q. Some in 1912 and some in 1913?

A. In 1912 and 1913.

Q. Any previous to that?

A. I think in 1909 we purchased galvanized sheets, and, I think——

Q. 1909?

A. Yes; those three years are about the three years that we have purchased galvanized sheets.

Q. Take the year 1909; do you recall anything about the prices at which you purchased sheets?

A. No, sir.

Q. Or the prices you got?

A. No, sir.

Q. Or the relation of the bids?

A. No, sir.

Q. Take the year 1912: do you recall from whom you purchased galvanized sheets?

A. Well, we were purchasing from two different places in 1912, if I remember right.

Q. Who were they?

A. We purchased from the American Sheet & Tin Plate Company, and from the Brier Hill people, or what was then, I believe, the Thomas Steel Company.

Q. What percentage of your galvanized sheets did you get from the American Sheet & Tin Plate Company?

A. Oh, I should judge about half of them.

Q. And half from the Brier Hill?

A. I should think so; about that.

Q. Did you have contracts with each of those companies?

A. No; we had no contracts with them.

Q. Just gave them orders from time to time?

A. Yes; practically from time to time on that.

Q. Do you recall what each of those companies charged you on the various orders?

A. No, sir; I do not.

Q. Or the relation they bore to each other?

A. I think we bought them cheaper from the Thomas Steel Company, if I remember rightly.

Q. Are you positive that you got it cheaper from them?

A. I know we did.

Q. In 1912?

A. Yes, sir.

Q. Take the year 1913; from what different companies did you——

A. In 1913, I think that we have not bought any galvanized sheets except from the American Sheet & Tin Plate Company.

Q. And from what other companies have you gotten bids?

A. Well, I bought of them about a year ago a certain amount or sum; I do not remember what now, but we got bids at that time from Stark and the Brier Hill.

Q. What years have you bought bars?

A. Well, we have bought bars, I should judge, about seven or eight years.

Q. From whom did you buy bars in the year 1906?

A. You have got me; too far back.

Q. Do you remember anything about the parties from whom you solicited bids on bars in 1906?

A. No, sir; I do not.

Q. Or what the prices were they made to you?

A. No, sir.

Q. Or the relation between the prices?

A. No, sir; I could not answer that question.

Q. Take 1907; the same questions?

A. That is too far back.

Q. 1908?

A. In 1908, if I remember rightly, we purchased some bars from the Jones & Laughlin people, and some from the Carnegie people—Carnegie Steel Company, and I think that is all in that year.

Q. Do you remember what you paid Carnegie?

A. No, sir.

Q. Do you remember what you paid Jones & Laughlin?

A. No, sir; I do not.

Q. Do you remember any other company that you solicited bids from that year?

A. No, sir; I do not, but——

Q. Do you remember what the prices——

MR. REED: I do not think he had finished.

MR. COLTON: I beg pardon. Go on.

THE WITNESS: But I might say that it has been our policy to ask prices practically from half a dozen or so different makers of bars about this time of the year.

By MR. COLTON:

Q. You do not recall whether you did that in 1908, or not?

A. No, sir; I do not, only as a general proposition I might say that in a measure I know that we did, but then I could not give you any of the particulars of it.

Q. You do not remember what the quotations were?

A. No, sir.

Q. Or what their relation was to each other?

A. No, sir.

Q. Would your answer be the same for 1909?

A. The answer would be practically the same right up to this date; yes, sir.

Q. Can you not remember some of those things for 1913?

A. Why, I do not remember the prices that we pay on those things. Bars we have generally bought under contract.

Q. Take the year 1909: do you remember how the prices of bars varied in that year at all?

A. No, sir; I do not remember.

Q. Bars constitute a very small proportion of your business, do they not?

A. Yes, sir; they constitute a small proportion of our tonnage.

Q. And you do not recollect much of anything about prices in any of those years, do you?

A. No; not as to the variance of prices. I endeavor to compare the prices at the time we make a contract for bars.

Q. And then you do not attempt to keep that in your mind afterwards?

A. Then I endeavor to get rid of that part of it.

Q. That is more or less true of sheets and galvanized sheets, is it not?

A. That is practically true of anything.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. It is the same with regard to steel as it is with regard to all the other supplies that your company buys, is it?

A. Yes, sir.

MR. COLTON: What is the same?

By MR. REED:

Q. You discharge from your memory all details as quickly as you can, after the transaction is closed?

A. Yes, sir.

Q. And you remember the fact of the variation without remembering the particular prices?

MR. COLTON: I object to that. He has not so testified at all.

MR. REED: Has he not?

By Mr. Reed:

Q. Well, what is the fact, Mr. Bentley?

A. Why, I said that we made it a practice of getting prices from the various manufacturers of stuff when we wanted it, and disposed of it at that time, and I endeavored to get it out of my mind after that.

Mr. Colton: That was all he said.

The Witness: That is all there was of it.

By Mr. Reed:

Q. You have stated that you do not remember the particular prices that were quoted by particular makers?

A. No, sir.

Q. At particular times?

A. No, sir.

Q. And for myself I did not expect you to remember them, or did not understand you to testify that you did. Is it a fact, or not, that you remember that there were variations in the prices?

A. I know there were variations in the prices.

Q. If there were not you would not keep on asking bids from so many concerns?

A. No.

Mr. Reed: That is all.

RECROSS EXAMINATION

By Mr. Colton:

Q. In 1906 from how many different companies did you get bids on black sheets?

A. I could not give it to you at that time.

Q. You do not know how many of them quoted the same price and how many quoted different prices at that time, do you, on black sheets?

A. No; that is too far back for me to remember.

Q. 1907?

A. That is the same thing.

Q. 1908?

A. Well, I said I could not remember—could not give you data on that subject at this time.

Q. Is that true of each of the different products for the years back of 1911, say?

A. Well, in a measure it is; yes, sir.

MR. COLTON: That is all.

MR. REED: That is all, Mr. Bentley.

MR. SEVERANCE: Mr. Hartman.

WALTER C. HARTMAN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you live?

A. Detroit, Michigan.

Q. What is your business?

A. President of the National Manufacturing Company.

Q. That is a rather indefinite title; what is the business of that company?

A. Manufacturing and jobbing of slack cooperage stock.

Q. Will you explain a little more in detail what slack cooperage stock includes?

A. We manufacture and deal in barrel material; that pertains to the slack material as distinguished from the tight barrel. We manufacture and job the stock to make barrels, hoops, staves, headings, headliners, nails and staples.

Q. How long have you been in that business?

A. About sixteen years.

Q. And in what parts of the country do you do business?

A. All over the United States and some foreign countries.

Q. Your business has been rather a large business, has it not?

A. Yes.

Q. When you went into that business of what were those barrels made that you jobbed or manufactured?

A. We did not manufacture the barrels.

Q. Well, the stock.

A. Yes, sir.

Q. What was that stock made of when you went into the business?

A. The slack barrels were generally made from bass wood and hardwood headings, elm staves, hardwood staves and elm hoops, coiled elm hoops.

Q. Were those coiled elm hoops used exclusively for barrel hoops at that time?

A. Yes, and shaved hickory hoop was also used, and is yet to some extent.

Q. But the hoops were made of wood?

A. The hoops were made of wood, all hoops for slack barrels.

Q. When, if ever, were barrel hoops for use in the kind of barrels that you sell the stock for made in anything other than wood?

A. Well, there has been some experimenting, and an insignificant amount of wire or steel hoops made back as far as twelve or thirteen years ago, but they were not put on the market generally, or anything made that was really practical until six or seven years ago.

Q. Who made them?

MR. COLTON: Just one moment. I object on the ground that the witness has not been shown to know all the different people engaged in that business.

THE WITNESS: The American Steel & Wire Company.

By MR. SEVERANCE:

Q. You are familiar with the barrel business, being in it all the time?

A. Yes.

Q. And the first time you knew of steel hoops being put on the market commercially was when the American Steel & Wire Company entered upon that business six or seven years ago?

A. Yes, that was a wire hoop, not a steel hoop.

Q. I mean a wire hoop; are steel hoops also used?

A. Yes.

Q. For what kind of barrels are they used?

A. They are used for tight barrels, and also there is a steel hoop used on slack barrels, a flat steel hoop.

Q. When was that first put on the market?

A. About five years ago.

Q. Who put that on the market?

A. The Carnegie Steel Company.

Q. Then the first wire hoop commercially sold was the Steel & Wire Company's wire hoop?

A. Yes, sir.

Q. And then this flat steel hoop was brought out by the Carnegie Steel Company about five years ago?

A. Yes.

Q. Have you ever dealt in these wire hoops produced by the American Steel & Wire Company?

A. Yes.

Q. How soon after they were put on the market did you commence to deal in them?

A. A year or two after they came on the market to any extent we began to buy and sell them.

Q. How extensively have you bought and sold those hoops since then, about how many a year?

A. We have used up to five million a year.

Q. Are those wire hoops used without any wooden hoops at all on the barrel, or are they used in connection with wooden hoops?

A. They are used in connection with a wooden hoop.

Q. Just explain now how that is done.

A. Where the wire hoops are used it is necessary to have a head hoop on either end of the barrel, a flat elm hoop, in order that it can be nailed through the staves into the head. Then immediately below the elm hoop they use and drive down with the wooden hoop one wire hoop. Then on the bulge of the barrel they use two wire hoops, making in or-

dinary practice four wire hoops to two wooden hoops on a barrel.

Q. Are you still selling the wooden hoops?

A. Yes.

Q. Do you sell them in large quantities or small quantities?

A. Large quantities.

Q. Which sell the cheaper in the market, the wire hoops or the wooden hoops?

A. The wire hoops.

Q. How much cheaper is the wire hoop? That is, approximately how much cheaper is it than the elm hoops?

A. About 25 per cent. cheaper.

Q. Did any other concern enter upon the manufacture of wire hoops and sell them in the market after the Steel & Wire Company had produced their hoop?

A. Yes, sir.

Q. When was the first that you knew of anything of that kind?

A. Oh, about five years ago or four years ago.

Q. Who made them?

A. One hoop was made by the Pittsburgh Spiral Wire Hoop Company.

Q. Was that the first one that followed after the Steel & Wire Company's?

A. Yes; that is the first one to our knowledge.

Q. Then did any other company go in the business after that?

A. Yes; the Youngstown Sheet & Tube Company, of Youngstown, Ohio.

Q. Has your business ever been solicited by either the Pittsburgh Spiral Wire Hoop Company or the Youngstown Sheet & Tube Company?

A. Yes, many times.

Q. Either or both?

A. Several years ago we talked about handling some of the hoops made by the Pittsburgh Spiral Wire Hoop Company. We never purchased any of them—we could have done

so—and we have been solicited several times to handle some of the stock made by the Youngstown concern.

Q. Did the Youngstown Sheet & Tube Company ever quote you prices on hoops?

A. Yes.

Q. How did the prices quoted you compare with the price you were paying the American Steel & Wire Company?

A. They would average lower, a little lower.

Q. Are you still buying and selling the American Steel & Wire Company's wire hoops?

A. Yes.

Q. Still in a large quantity?

A. Yes.

Q. Over the country?

A. Yes.

Q. In handling these hoops do you meet the competition of these other hoops made by the Pittsburgh Company and the Youngstown Sheet & Tube Company?

A. We try to, yes.

Q. I mean, do you find them competing with you?

A. Yes.

Q. In what territory?

A. Well, in various territories we find considerable competition.

Q. And to whom do you sell; do you sell to consumers or to retailers or to whom do you sell?

A. We sell to the man that sets up the barrel, makes the barrel.

Q. The coopers?

A. The coopers, or the manufacturing concerns who run a cooper shop and make the barrels of their manufactured product, for their own use, in other words.

Q. In conducting that business and selling these people what have you met with, if anything, in the way of prices quoted by the jobbers or others handling the Pittsburgh or the Youngstown wire hoops?

A. Well, we have found them selling in some instances where they needed the business at lower figures than those

we were generally getting from our customers for the hoops we were handling, the American Steel & Wire Company.

Q. Have you ever found a substantial difference in the prices?

A. At times they have been quite varying; yes, sir.

Q. What have you done, if anything, in the way of reducing or changing your price to meet the competition of these other people from time to time?

A. We have done that in several instances where the individual was a desirable customer and using a considerable quantity, we have made him a special price in an effort to get the business.

Q. Has there been any change in the price made to you as a jobber by the American Steel & Wire Company from the price originally charged you?

A. Yes, two or three years after the hoop was introduced they reduced their prices to the jobbers, and we bought our stock from that time at a less price per thousand.

Q. About how much less; about what percentage did they reduce the price?

A. Five or six per cent.

Q. Has that always remained at that reduced price since then?

A. Yes, sir.

Q. Have there been any occasions when you have secured a smaller price for the purpose of meeting the competition of other manufacturers?

A. Yes, sir; in some special instances we have bought stock from them at lower figures than those made generally at the time of that reduction; and we have also sold lower to our consuming trade.

Q. In general, what are these barrels used for that are made with the wire hoops that you have spoken of?

A. One of the largest uses is for barrels to be used in the sugar industry, also flour, lime, cement, glass, apple barrels, and similar purposes.

Q. Is the consumption of these wire hoops increasing or decreasing?

A. I would say it has materially increased since they were first introduced.

Q. Are there now more wire hoops or elm hoops sold?

A. More elm.

Q. Formerly they were all elm or hickory, you said?

A. Yes, sir; some shaved ash hoops, but not very many.

Q. You stated that at times the people handling the hoops made by Pittsburgh and Youngstown were quoting lower prices than you quoted. Are you able at any time to sell the American Steel & Wire hoops without meeting this lower price? If so, how can you do it?

A. We have handled this particular make of hoops since it was used, in a large way, and it has a good reputation in regard to quality. We have taken care of the trade, and made good anything in the way of claims, and established our business in this particular make of hoop, and of course we talk that hoop, and we have not always found it necessary to make a very low price or to make a very small profit.

Q. By the way, are there any other people manufacturing and selling wire hoops now, aside from the three you have mentioned?

A. Yes, sir; the American Manufacturing Company, of Chattanooga, Tennessee, is making wire hoops, and has been for some years.

Q. Is that hoop sold in the same market in which you are selling?

A. Yes, sir.

Q. Have you met their competition?

A. They have sold their hoops principally in the South, and we have not in every case met their competition, the freight rates being somewhat higher from the North——

Q. I do not mean "met" in the sense of meeting their prices, but have you come across their competition; have you had their competition?

A. Oh, yes. We have been unable to secure some business that we know they have been selling for years.

CROSS EXAMINATION

By Mr. Colton:

Q. These are different style hoops made by the different steel companies, are they not?

A. Different style?

Q. Yes.

A. The wire hoops that I have referred to are practically the same style, with the exception of the Pittsburgh Spiral Hoop, which is of a different form, being made in a spiral instead of a straight form.

Q. When did the Youngstown Sheet & Tube Company begin to make hoops?

A. I don't know. We first found them in the market actively engaged in selling two or three years ago. I am not sure about that date.

Q. What was their price the first year you found them in the market?

A. I don't know that I can give you any of their prices. The business that they have solicited has been personally by their representatives calling on us in Detroit and giving us prices and soliciting our business in a general way.

Q. Then, taking it as a whole, you have not been familiar with their prices?

A. Yes; I was familiar with them at the time they gave me the price. I found it was a fairly low price. The price was satisfactory, but we just simply did not want to give them our patronage.

Q. What year did they give you a price?

A. I think they gave us a price last year. Yes; last year we received a quotation from them.

Q. You say last year you received a quotation from them?

A. Yes; and also this year.

Q. You had already built up your business on this particular steel hoop, and continued, for that reason, to buy from the American Steel & Wire Company?

A. Yes. We had never advanced the use of the spiral hoop. We never handled any of them. It is a different style hoop entirely.

Q. And your customers wanted the steel hoop you were selling?

A. I think we could have sold the other hoop if we had talked it, probably.

Q. You had talked this up and made a good business of it, had you not?

A. In the first place we talked it as compared with the elm hoop, as being better on account of breakage, and cheaper; and of course we continued selling the same hoop.

Q. It is a fact, is it not, that your customers were familiar with this particular style of hoop that you had been selling, and wanted it?

A. Oh, yes; they wanted this style of hoop. Those who had been using this straight hoop, of course, would want the same hoop; unless, of course, we could have demonstrated that something was better. Sometimes we would sell them the elm hoop.

Q. This is called a straight hoop?

A. We call it a straight hoop; yes, sir.

Q. And have you seen the Youngstown Sheet & Tube Company's hoop?

A. Oh, yes.

Q. Is that a straight hoop?

A. Yes, sir.

Q. But the Pittsburgh Company's hoop is a spiral hoop?

A. A spiral; yes, sir.

Q. What sort of a hoop is the American Manufacturing Company's hoop?

A. That is a straight hoop.

Q. What price are they selling their hoops at now?

A. I don't know.

Q. Do you claim superiority for your hoop over these other hoops?

A. I cannot say that it is superior, except we know it is made by a good concern that has had years of experience, and we have had very few claims; we tell our customers that we have had very few claims in years of handling this particular hoop. It is a good hoop, contains good steel, and is well made.

Q. Your salesmen have been praising this hoop, and your business is built up on that, is it not?

A. No; we do not always sell the American Steel & Wire Company's hoop.

Q. You sell wooden hoops at times, instead of the steel hoops?

A. No; we sell wire hoops, without saying whose hoop they are going to be.

Q. It is this same steel hoop, is it not?

A. Yes.

Q. You have only sold the American Steel & Wire hoops, have you not?

A. No; we have sold wire hoops; we have taken orders for wire hoops, and then shipped the American Steel & Wire hoop, in some cases.

Q. Have you ever delivered any other kind of hoop than the American Steel & Wire hoop?

A. No, sir.

Q. You had been pushing the American Steel & Wire hoop and you had sold only that kind of hoop, and if you had pushed any other kind of hoop, you would have had to sell some hoop which was different from the hoop you had been pushing?

A. No, sir; the other hoops are so similar in appearance that I do not think our customers could have told the difference; and, aside from that, we did not always sell the American Steel & Wire Company's hoop.

Q. Did you ever sell anybody else's hoop?

A. When we took orders we took orders for a wire hoop, and they all know what that means.

Q. But, as a matter of fact, you never sold any other kind of hoops than the American Steel & Wire Company's hoop, did you, Mr. Hartman?

A. You see, I was distinguishing between delivery and sale—formal sale. It is a fact that we have always shipped our customers the American Steel & Wire Company hoop.

Q. And you, of course, bought exclusively from the American Steel & Wire Company?

A. Yes, sir.

Q. And all other steel products that you bought you have bought from the American Steel & Wire Company, have you not?

A. No, sir.

Q. What steel product have you bought from anybody else?

A. We have bought some nails and staples of other concerns.

Q. Have you bought all your bale ties from the American Steel & Wire Company?

A. Yes, sir.

Q. What tonnage have you bought of nails and staples, all told?

A. I do not know.

Q. It is a very small part of your business, is it?

A. It is a small part compared with the wire hoops, yes, sir.

MR. COLTON: That is all.

MR. SEVERANCE: That is all, Mr. Hartman. Mr. Hansen.

HANS HANSEN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you live, Mr. Hansen?

A. I live in Hastings, Nebraska.

Q. What is your business, Mr. Hansen?

A. I retail lumber and coal and woven wire fence, and such things as that.

Q. How many lumber yards have you out in that country?

MR. DICKINSON: I object to that as irrelevant.

MR. SEVERANCE: Go ahead, Mr. Hansen, and answer the question.

THE WITNESS: Ten.

By Mr. Severance:

Q. Where are they located?

Mr. Dickinson: I object to that as irrelevant.

Mr. Severance: I am going to follow it up by showing that he sells fence at these yards.

By Mr. Severance:

Q. Where are they located, Mr. Hansen?

A. They are located at Hastings—these are all towns in Nebraska, understand—Hartwell, Minden, Axtell, Edison, Alma, Orleans, Beaver City, St. Paul, all in Nebraska.

Q. Did you leave out Stamford?

A. Stamford, yes.

Q. Now, do you sell woven wire fence at any of those lumber yards?

A. We sell woven wire fence at all of those points except one.

Q. Which one is that?

A. That is Orleans.

Q. Take these towns up in their order. Take Hastings; what woven wire fence do you sell at Hastings?

A. Well, we sell American——

Q. (Interposing) You yourself, I mean.

A. Yes. We sell American fence; occasionally a little Grand Island.

Mr. Dickinson: What is that?

The Witness: Grand Island; occasionally a little Cyclone, and we have sold a little Page, and a little Lamb.

By Mr. Severance:

Q. That Lamb is the same fence that is also known as the Peerless fence?

A. I understood they had changed their name. We have not handled Lamb for some time.

Q. What is the principal fence that you handle at Hastings?

A. That is the American fence.

Q. That is made by the American Steel & Wire Company?

A. Yes, sir.

Q. Are there other dealers in woven wire fence at Hastings?

A. Yes, sir.

Q. And what kind of fence do they handle?

A. Well, they handle Grand Island and Peerless, or Lamb, they call it; Page, and Electric Weld, and perhaps others. There may be others, as far as I know.

Q. But you know of those?

A. Yes, I know of those.

Q. Where is the Grand Island fence made?

A. That is made at Grand Island, about 25 miles north of Hastings

Q. You have bought and sold some of that, you say, yourself?

A. Yes, sir.

Q. How does that range in price to dealers like yourself, as compared with the American fence?

A. That generally sells for less money; always sells for less money.

Q. How much less a rod?

A. Well, I can hardly answer that, because a rod of fence—fence runs from 15 inches up to 60 inches, and I could hardly give an intelligent answer on that. It would have to be a percentage, it seems to me.

Q. Well, what percentage is it cheaper than the American fence?

A. From five to ten.

Q. Is considerable of that fence sold in Nebraska?

A. Yes; in localities there is a good deal of it sold.

Q. It is manufactured at Grand Island, Nebraska, is it?

A. Yes, sir.

Q. How does it differ from the American fence in its construction, if at all?

A. Well, it is a continuous wire, and the bottom and the top, if you so order, can have a barbed wire twist, and the cables are of double wire, generally. The wire is somewhat lighter in construction than the American fence.

Q. You have described that fence. Just describe the American fence.

A. Well, the American fence——

Mr. Dickinson: (Interposing) I object to that as irrelevant.

Mr. Severance: Go ahead.

The Witness: The American fence is a single wire, the cable running this way (indicating).

By Mr. Severance:

Q. You mean horizontally when you say, "this way"?

A. Yes, and the stays up and down are woven tightly around the cable, and cut, and then woven tightly again and cut; while the Grand Island fence, they take one continuous wire and go down to the next one, and make one wrap, and then go to the next one and make one wrap; so that the American fence is on a hinged joint. If a critter comes along and——

Mr. Severance: (Interposing) A what?

The Witness: An animal. That is a western expression—comes along and bends over the fence, the fence will bend down, and, on account of the hinge on the American fence it will straighten itself again; while on the Grand Island fence it will not do that. You simply bend the wire, and that stays bent until someone comes along and straightens it up.

Q. Then it is a more rigid fence, is it not, than the American fence?

A. No; the American fence is a more rigid fence than the Grand Island fence.

Q. The American fence is more rigid than the Grand Island?

A. Yes, sir.

Q. Although it will bend down and fly back?

A. Yes, sir.

Q. Still it is more rigid, is it?

A. Yes, sir.

Q. Well, now, take the Lamb fence or Peerless; has that ever been quoted to you, on prices? You say you bought it years ago.

A. Yes.

Q. Where is that made?

A. I think that is made in Adrian, Michigan.

Q. How is the price of that fence to dealers as compared with the American fence?

A. Well, they range about the same; I have never detected any difference, very much.

Q. Not very much difference?

A. Not very much difference.

Q. How does that fence differ from the American fence in its construction?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: There are horizontal cables, and there is a clamp comes over and holds the two together.

By MR. SEVERANCE:

Q Where is the Electric Weld fence made?

A. I don't remember; I cannot recall just now. I think Kokomo, Indiana.

Q. No, you are mistaken about that: the Electric Weld is the Pittsburgh Steel fence. How does it sell in the market as compared with the American fence?

A. Well, about the same, I think. Perhaps a little more than the American.

Q. Which is the heavier fence, the Electric Weld or the American fence?

A. The American fence.

Q. How is that Electric Weld fence made?

A. Well, it has of course horizontal wires, and then up and down wires, and they are laid together without any joint or without any clamp; just welded together by electric process.

Q. What virtue is claimed for that fence in the way it is constructed?

A. Well, they claim that at the joints, there being no joints and no wraps, it will not rust so easily. They claim that for it.

Q. Is there considerable of that fence sold in your part of the country?

A. No, not a great deal.

Q. How about the Peerless fence?

A. There is a great deal of that sold; a good deal.

Q. Do you know a fence out there called the Kitselman fence?

A. Yes.

Q. Is that handled in Hastings?

A. No, not much.

Q. Is it handled in any of the towns where you have your lumber yards?

A. Not that I know of.

Q. Where is that sold in the market, if at all, by dealers or by other people?

A. The Adrian, they ship to consumers a great deal, and they will appoint agents in the country among the farmers; they sell the farmer enough fence to fence his place, and then appoint him an agent and he canvasses out among his neighbors and takes orders, and they move a great deal of fence that way.

Q. How is the price of the Kitselman fence, as compared with the American fence?

A. Somewhat less.

Q. How is that made, as compared with the American?

MR. DICKINSON: Objected to as irrelevant.

MR. SEVERANCE: Go ahead and answer. Explain the Kitselman fence.

THE WITNESS: It is made similar to the Grand Island, just one wrap around the horizontal wire.

By MR. SEVERANCE:

Q. By the way, how large a town is Hastings, Nebraska?

A. About 10,000.

Q. Now, at Hartwell, do you handle fence at your yard there?

A. Yes.

Q. What other fence is sold at Hartwell, and by whom?

A. There is nothing sold there by any dealer. What fence comes in there is ordered direct from the manufacturer or from a catalogue house and shipped in.

Q. Whom do you mean by "a catalogue house"?

A. I mean such houses as Sears, Roebuck & Company, and Montgomery, Ward & Company, and such as those.

Q. Do those houses sell woven wire fence on rather a large scale?

A. In some localities they do.

Q. That is, Montgomery-Ward, and Sears-Roebuck?

A. Yes.

Q. What kind of fence do they sell? Do they sell a fence under their own name or sell somebody else's fence?

A. Somebody else's fence; in fact, I know they have no fence of their own.

Q. Do you happen to know whose fence they sell?

A. No, I do not. They have various makes.

Q. Is that sold in the same territory that is tributary to some of these towns where you have your lumber yards?

A. Yes.

Q. What do you sell at Hartwell?

A. The American.

Q. Take the town of Minden; what fences are sold there?

A. The American, the Royal, and some Page fence is sold there.

Q. Just describe the Page fence. You haven't described that yet.

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: That is the same as the Grand Island, very similar, with horizontal wires and ups and downs, with one twisted around a continuous wire, twisted to the next one and to the next one, over about 12 inches; the same process.

By MR. SEVERANCE:

Q. At Axtell, what fence do you sell?

A. The American.

Q. What other fence is sold there?

A. I do not know just at the present time. There was a good deal of Janesville fence in there a couple or three years ago.

Q. That is made at Janesville, Wisconsin?

A. Yes.

Q. Is there a good deal of Janesville fence sold in Nebraska?

A. Not much.

Q. Has there been a good deal of it at times?

A. Yes; years ago there was a good deal.

Q. What kind of fence is that as compared with the American?

MR. DICKINSON: Objected to as irrelevant.

By MR. SEVERANCE:

Q. I am speaking of the make of it.

A. That is what we term a "diamond mesh" fence. They have horizontals, and the weave comes down, and the wires are woven in crossways.

Q. What virtue is claimed for that as against the square mesh? Is there anything about its strength, or anything of that kind, claimed for it, or the method by which it is made?

A. Perhaps the only advantage is this, that the mesh will average a little closer, will be a little smaller.

Q. What kind of fence is sold at Edison?

A. We sell the American.

Q. What else is sold there?

A. The same condition prevails there perhaps as it does at Hartwell.

Q. How about Alma and Stamford?

A. Very much the same.

Q. As at Hartwell?

A. Yes.

Q. Do you sell any lawn fence?

A. Yes.

Q. What lawn fence do you sell?

A. Principally the Cyclone fence.

Q. Who is that made by?

A. The Cyclone Fence Company, at Waukegan, Illinois.

Q. Do the American Steel & Wire Company also sell lawn fence?

A. Yes.

Q. Do you keep Cyclone lawn fence at all of your yards, or only a portion of them?

A. Part of them. We keep the catalogues, and we order from the catalogues. We don't always keep stock.

Q. Whatever you sell, you sell of that kind?

A. Yes.

Q. Do you handle any wire gates?

A. Yes.

Q. What kind?

A. The Cyclone, the Iowa gate, and the American Steel & Wire Company's gate.

Q. Are they, all three of those kinds, sold in your locality?

A. Yes.

Q. Is there any difference in the price? Is the American Steel & Wire Company higher or lower?

A. Not any material difference.

Q. Do the American Steel & Wire Company sell their gates as cheap as the Cyclone?

A. Well, they do, yes; they didn't used to, but they do now. I do not know as they make quite as good a gate as the Cyclone.

Q. They used to get more than the Cyclone, didn't they?

A. Yes.

Q. And they have come down?

A. Well, of course they didn't pay much attention to the gate business. They did not catalogue them very much and didn't say much about them. I do not think they manufacture them very heavily.

Q. Are there any steel posts used in your country, Mr. Hansen?

A. Yes, sir.

Q. What concerns are selling posts there, or trying to sell them?

A. The American Steel & Wire Company; the Carbo Steel Company; a concern at Lincoln, Nebraska is making steel posts——

Q. Is that Carbo steel post made by the Inland Steel Company, of Chicago? They have one by that name, I know.

A. I don't know. I haven't paid enough attention to the steel posts to enable me to remember the address.

Q. What is the name of the company at Grand Island that makes this Grand Island fence?

A. The C. H. Tully Fence Company.

Q. Are there any other fence manufacturers in Nebraska, aside from the Tully Company?

A. J. H. Van Steen Company, at Beatrice.

Q. Mr. Hansen, how does the price of the American fence, made by the American Steel & Wire Company, which you handle, compare with the price they charged for it ten or twelve years ago, if you were then in business?

MR. DICKINSON: I object to that as irrelevant.

By MR. SEVERANCE:

Q. Is it higher or lower?

A. Lower.

Q. About how much lower?

A. Well, it is 30 per cent. lower, at least.

Q. Take the fence of the same height and the same grade, and how does it compare in weight with what it was ten or twelve years ago?

A. About ten per cent. heavier.

Q. That is, they use heavier wire than they used to use?

A. Yes; all the wires are heavier.

Q. They use heavier wires, and still they have reduced the price about 30 per cent.?

A. Twenty-five to thirty per cent., yes. In answering thirty per cent., I included the difference in the heft of the wire. I would say twenty-five per cent., and then, adding the heft of the wire, that would make it thirty.

Q. As I understand then, the actual price per rod would be about 25 per cent. less than it was 10 or 12 years ago?

A. Yes, sir.

Q. And in addition to that, it weighs considerably more per rod, which you say in effect reduces the price 30 per cent.?

A. Yes.

(Cross-examination waived).

(Whereupon adjournment was taken until to-morrow, Tuesday, December 9, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-SIXTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Tuesday, December 9, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

GEORGE W. SIMMONS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Simmons, where is your home?

A. St. Louis.

Q. What is your business?

A. Wholesale hardware.

Q. What is the name of your company?

A. The Simmons Hardware Company.

Q. By whom was that company established?

A. My father, Mr. A. C. Simmons.

Q. Your father is still living?

A. Yes.

Q. How long ago was the business established?

A. My father went in business in 1856. The Simmons Hardware Company was incorporated,—the first mercantile corporation in the United States, incidentally—in 1874. Previous to that time it had been a partnership.

Q. When did you become connected with the business?

A. When I left college, in the fall of 1900.

Q. Have you been actively connected with the business since that time?

A. Continuously.

Q. What is your official position?

A. I am vice president, and at the present time, acting president of the company.

Q. Who is the president of the company?

A. My brother, Mr. Wallace D. Simmons.

Q. Where does your brother reside?

A. He is at the present time at Philadelphia, where we have opened a new house, and he is looking after that house until it gets well under way.

Q. Has the principal place of business of your company always been at St. Louis?

A. Yes, sir.

Q. And it still is?

A. Yes, sir.

Q. Will you kindly state at what other places, if any, the Simmons Hardware Company carries on business by way of maintaining stores, warehouses, factories or otherwise?

A. New York City, Philadelphia, Toledo, Minneapolis, Sioux City, Iowa, Wichita, Kansas.

Q. What have you at those places?

A. We have regular jobbing houses at those places, and, with the exception of New York, which is largely an export office and sample room, they all carry complete stocks of merchandise to serve the territory adjacent to those shipping points. We have a number of other interests in factories which we either own entirely or in part, principally located at St. Louis and Walden, New York.

Q. Where is Walden?

A. Walden is about ten miles west of Newburgh. It is a cutlery center. We have the largest cutlery factory in the country there.

Q. The largest in the country?

A. Yes. That is located at Walden, which, as I say, is a cutlery center. A lot of cutlers who came over from Shef-

field live there. We also have another factory at Bennington, New Hampshire.

Q. Outside of cutlery, what is made at these factories in which you are interested, or which you own?

A. Edge tools are the only other items of different kinds.

Q. Have you a particular brand of cutlery and edge tools that you put on the market?

A. Yes, sir.

Q. What is that known as?

A. Our leading brand is Keen Kutter.

Q. Spelled with a "K"?

A. Yes; K-e-e-n K-u-t-t-e-r.

Q. That is very widely advertised, is it not?

A. Yes; and has been for about 48 years.

Q. Where is the trade of the Simmons Hardware Company?

A. In every county; almost in every city of the United States and in most foreign countries.

Q. What classes of goods do you export?

A. Our own brands of Keen Kutter tools almost exclusively.

Q. How extensive a line of tools of that kind do you make?

A. We have the most extensive line in existence. It covers everything with a cutting edge or in any way connected with tools or cutlery.

Q. You say you export through New York?

A. We have our export office here, because foreign countries seem to prefer to deal with an American House at New York rather than anywhere else.

Q. In what way has your ability to carry on a foreign business been affected by the fact that you have a full line consisting of many kinds of edge tools and cutlery?

A. Without that we would have practically no business abroad.

Q. Why is that?

A. Because no one line or one item in the line would be sufficient to interest the foreign buyers. It is the complete-

ness of the line under one brand and one uniform quality that they seem to take an interest in.

Q. That is, they buy full lines of you, do they?

A. Yes, sir.

Q. How many customers have you, approximately, in the United States?

A. About 50,000.

Q. What are those customers?

A. Retail hardware merchants and other retail merchants; general stores carrying hardware.

Q. Do you have traveling men on the road?

A. Yes.

Q. How many?

A. From 450 to 500.

Q. What system, if any, have you of keeping in touch with trade conditions throughout the country?

MR. DICKINSON: We except to that as irrelevant.

MR. SEVERANCE: I will state to counsel that I think he will see a little later that it will be quite relevant. Go ahead, Mr. Simmons.

THE WITNESS: We teach our men very carefully that it is as important a part of their duty to study commercial conditions and keep us posted as to what does exist and what will likely occur in business as it is for them to sell goods, and, as a result of our knowing and studying the conditions thoroughly and having information from all these salesmen in a way which is extremely accurate, we are able to direct our business very much more intelligently than if we had to wait for something to happen before we knew it was going to happen in a changing business condition, and in almost all of the phases of general conditions which influence business, such, for instance, as crop prospects, we have results sufficiently far ahead of time to enable us to gauge our business accordingly, and almost never have the predictions failed to come out accurately.

By MR. SEVERANCE:

Q. How long have you been carrying on that system of yours?

A. A good many years; I guess twenty years or more.

Q. At least during your entire connection with the business?

A. All my business life, yes.

Q. By the way, I forgot to ask you what lines of goods you handle in your various stores, outside of these tools and the cutlery.

A. Practically everything that the average hardware merchant has in his store, with the exception possibly of bar iron and plumbers' supplies. We handle all kinds of shelf hardware as well as cutlery and tools, sporting goods, beds, refrigerators, all house furnishing goods, automobile supplies, bicycles and paints. I think I have covered the principal ones.

Q. Do you handle tin plate and sheet steel?

A. Yes; sheet steel and tin plate; nails, barb wire, smooth wire and fencing.

MR. DICKINSON: Did you ask him about agricultural implements?

THE WITNESS: We have only hand agricultural implements; no power implements.

By MR. SEVERANCE:

Q. That is, you handle spades?

A. Yes; what we call hand implements, such as spades, forks, rakes and hoes, and things of that sort.

Q. Axes?

A. Yes, axes and hatchets; that comes with the edged tools.

Q. How does the Simmons Hardware Company compare in its turn-over with other companies in the same line of business, if you know?

A. By "turn-over" you mean the total yearly volume of sales?

Q. Yes.

A. We are considerably the largest in the country in our line, and probably in the world.

Q. What subsidiaries, if any, of the United States Steel Corporation have you purchased supplies from?

A. The American Steel & Wire Company and the American Sheet & Tin Plate Company.

Q. You do not handle the class of steel products produced by the Carnegie or the Illinois Steel Company?

A. No.

Q. Or the Tube Company?

A. No, sir.

Q. And have you been buying more or less from the Steel & Wire Company and the Sheet & Tin Plate Company during the entire time you have been connected with the business?

A. We have.

Q. You seem to have come into the business about the time the Steel Corporation was born. That was April, 1901, and you came in a few months before that?

A. In November, 1900.

Q. Do you mind stating about what your annual sales are, Mr. Simmons?

A. About $21,000,000.

Q. Of that, about what amount is comprised in the wire goods, and sheet and tin plate that you buy, that branch?

A. Our total volume of those goods which are made by those two companies that we do handle, I should judge, would be over a million and a quarter or a million and a half dollars at purchase price.

Q. Would that include all that is made by the Steel & Wire Company and the Sheet & Tin Plate Company, and their competitors?

A. Yes.

Q. All goods of that class, you mean?

A. All goods of that class.

Q. You say you have purchased from those two of the subsidiaries, the Steel & Wire Company and the Sheet & Tin Plate Company?

A. Yes.

Q. In your capacity of vice-president and acting president of the company what are your particular functions?

A. At the present time generally executive, looking after all of the various departments, which in turn are under the

direction of one of the other officers, who brings to me all matters of importance, and through whom I keep in close touch with the general detail of the business.

Q. What have you to do with the buying end of the business?

A. I have a general supervision of the buying, as one of the departments, which comes to me as the executive. At the present time I do not actually do the buying, but I am in touch with the facts pertaining to all the large contracts, and no important buying transactions are carried on without my knowledge.

Q. Do you see quotations that are submitted to the Simmons Hardware Company by various mills making prices?

A. I see some of the quotations, but when we come to place orders for that class of business I always see a tabulation of the various prices as submitted, but I do not always see the actual quotations signed by the factory.

Q. Is it the system in your office of having quotations when you are in the market for tonnage tabulated in form so they can be compared one with the other?

A. Yes.

Q. And those tabulations are submitted to you?

A. Yes, sir.

Q. How long have you been in charge in that way of the buying?

A. Between four and five years.

Q. Previous to that time who was particularly in charge of that business?

A. Well, my brother, as president of the company has always watched in a general way as I am doing now, and the detail of it was for a great many years under Mr. A. W. Douglas, who is now one of our vice-presidents, and for one or two years previous to the time I took charge of it under Mr. F. W. Allan.

Q. He is no longer in your employ?

A. He is no longer in our employ.

Q. Previous to the time that you took immediate charge, as you have stated, what was your knowledge, so far as prices were concerned, of quotations?

MR. DICKINSON: That means previous to four or five years ago?

MR. SEVERANCE: Yes, before four or five years.

THE WITNESS: My knowledge was in general such as I would have of all the principal features of the business.

By MR. SEVERANCE:

Q. You spoke of keeping in touch with trade conditions?

A. Yes, sir.

Q. And the general run of prices?

A. Yes, sir.

Q. But the actual tabulated figures were not placed before you as they had been during that period?

A. Not regularly.

Q. But they were at times?

A. At times I saw them; yes, sir.

Q. Since you have had immediate charge of this branch of the business what has been the practice of the Simmons Hardware Company in placing this tonnage of wire requirements or sheet or tin plate as to taking quotations from various mills?

A. We got quotations from a number of different manufacturers.

Q. And during that period have those quotations been uniform or varying?

A. They have been varying.

Q. Previous to the time that you were in immediate charge of that branch of the business and had, as you say, a more general knowledge, seeing some of the tabulations, what was the situation as to quotations, as to being uniform or varying, so far as they came under your observation?

A. I have never known them to be uniform.

Q. Have you had manufactured for you any classes of sheets, tin plate or wire goods, under brands of your own?

A. Yes, sir.

Q. Will you state what they are?

A. We have had some tin plate in our own brands, and fencing.

MR. DICKINSON: What is that?

THE WITNESS: Woven fencing.

By Mr. Severance:

Q. And has that been manufactured for you by different mills?

A. Yes, sir.

Q. Has the Steel & Wire Company manufactured any of your fencing?

A. Within about the last three years they have been making our fence. Previous to that time it was made by another concern.

Q. Who was it made by before?

A. I cannot recall the name; it was a small mill in Anderson, Indiana, but I do not recall the name right now. It was a patented fencing; that is, a patented lock on the fence.

Q. And who has made your tin plate for you under your brand?

A. Most of it has been made by the American Sheet & Tin Plate Company, some of it by Carnahan. I think too, we have had some from Wheeling. I am not quite sure of that.

Q. Outside of the tin plate that has been sold under your own brand, have you sold any other tin plate?

A. Yes, sir.

Q. Made by whom?

A. American Sheet & Tin Plate Company and N. & G. Taylor. I think that is the style of the firm.

Q. N. & G. Taylor of Philadelphia?

A. Yes, sir.

Q. Has their tin plate rather a wide reputation in the market?

A. Yes, sir; it is very well known, particularly their old style, as they formerly called it.

Q. That is sold pretty generally over the country, or in a particular locality?

A. Generally over the country.

Q. Will you state what different concerns have quoted you on tin plate, and the names of companies that you bought tin plate from? You have already given the American and Carnahan. You spoke of Carnahan making them, not of buying from them; have you bought from Carnahan also?

A. Yes, sir.

Q. Can you name any others?

A. Wheeling.

Q. The Wheeling Corrugating Company?

A. Wheeling Corrugating Company and Delphos Manufacturing Company.

Q. And have the prices quoted you by these different concerns varied?

A. They have.

Q. From whom have you bought sheets?

A. American Sheet & Tin Plate Company, Seneca Iron & Steel Company, Youngstown Sheet & Tube Company, Inland Steel Company, Milwaukee Corrugating Company, Wheeling Corrugating Company, LaCrosse Steel Roofing Company, or some such title, a small concern in LaCrosse. I think it is the LaCrosse Steel Roofing Company, I am not sure of the title; Globe Roofing Company and the American Rolling Mills, I think is one.

Q. That is at Middletown, Ohio?

A. Yes, sir.

MR. COLTON: Rolling Mill, isn't it?

THE WITNESS: Mill, I guess. I am not sure of the title. We speak of it as the American Rolling Mill.

By MR. SEVERANCE:

Q. Have you bought any sheets from Stark?

A. Yes, we have bought some small quantities from Stark. We have had quotations right along, but we have not had a great deal of business.

Q. Have you bought any from the National Enameling & Stamping Company?

A. Yes, sir; we have bought a good many from them.

Q. That is a local concern?

A. Yes; St. Louis—Granite City, just across the river from us.

Q. You spoke of buying tin plate from Delphos and Carnahan. Have you ever bought sheets from them?

A. Yes, we have had sheets from both of them at times.

Q. What has been the fact as to whether the quotations

made you when you were in the market for sheets by these different concerns have been uniform or varying?

A. They have been varying, sometimes two or more of the concerns would have the same price, but there have always been variations.

Q. Would you say that the majority of them have had varying prices when they were all bidding at the same time?

A. Yes, but as a rule the prices are made in five cent units. That is, they do not cut in odd cents, in between five and ten, so that the spread is not—there is not very much chance for a spread. There will be sometimes as much as twenty cents spread.

Q. That is, twenty cents a hundred?

A. Yes, twenty cents a hundred, so that that is practically four units, as it is generally quoted. It does not leave a chance to have them all different if they wanted to. Do you understand what I mean?

MR. DICKINSON: No, I do not.

THE WITNESS: I mean as a custom the prices are quoted in units of five cents, and when there is say a variation of twenty cents it is likely that two or three of them are at the same price. It has been our experience that when any of them do agree that the same two do not always agree at different times.

By MR. SEVERANCE:

Q. By agree, you mean quote the same price?

A. I mean simply the price happened to be the same figure.

Q. You do not assume that they make any agreement at all?

A. No, not at all.

Q. Take the manufacture of nails: you buy nails in large quantities, do you not?

A. Yes, sir.

Q. What different concerns are there that quote you on nails?

A. The American Steel & Wire Company, the Youngstown Sheet & Tube Company, the Jones & Laughlin Company, Wick-

wire Brothers, the Colorado Fuel & Iron Company, and the Pittsburgh Steel Company.

Q. What has been the fact as to whether their quotations made to you have been uniform or varying?

A. They have been varying.

Q. Do you buy barbed and smooth fence wire?

A. Yes, sir.

Q. And from what concerns?

A. Practically the same list as on nails. They generally go together.

Q. And do you buy smooth and barbed fence staples and poultry netting staples also?

A. Yes.

Q. From whom do you get them?

A. From practically the same list of concerns. We sometimes get staples from the H. C. Tack Company, of Cleveland.

Q. Did you ever buy any wire goods from the Grand Crossing Tack Company, of Chicago?

A. Not to my knowledge.

Q. How are the quotations on these other kinds of wire goods, aside from nails? You say they go along with nails generally. Have they been uniform or varying?

A. They vary.

Q. In about the same way?

A. Yes.

Q. Do you handle wire rope?

A. Yes.

Q. Where do you buy your wire rope?

A. Most of it is bought from Broderick & Bascom and A. Leschen & Sons, in St. Louis.

Q. You buy the bulk of your requirements from them?

A. I should say 75 to 80 per cent.

Q. Do you buy that on a competitive basis?

A. Yes.

Q. I might ask you the general question whether you make your purchases on a competitive basis?

A. Yes, sir.

Q. I mean by that, of all classes of material, not only steel, but everything else that you buy.

A. Everything.

Q. Do you buy and handle bale ties?

A. Yes.

Q. Where do you get your requirements in that line?

A. From the American Steel & Wire Company, from Laidlaw; that is all I can recall at the present time.

Q. Do you buy any from the Colorado?

A. I cannot say definitely. Our Wichita house buys from the Colorado, and they buy their products locally. I do not handle them myself.

Q. You said that you had a brand of fence that you put out yourself. Do you push that pretty strongly or not?

A. Yes.

Q. Do you sell it in carload lots?

A. Yes; and mixed with other things which mix with it; nails and wire particularly; sometimes poultry netting.

Q. And where do you sell that wire fence?

A. Any place in the country.

Q. Pretty generally, do you?

A. Yes.

Q. Is that rather a large tonnage?

A. Not very large compared with our tonnage on similar goods. It is a comparatively new item with us. We have not gotten it up to a large tonnage as yet.

Q. Is it increasing?

A. Yes; I think it is increasing.

Q. Do you handle horse and mule shoes?

A. Yes.

Q. On a rather large scale?

A. Yes.

Q. From whom do you secure your requirements?

A. From Burden—I have forgotten the title——

Q. The Burden Iron Company?

A. Yes; the Burden Iron Company. Also the Old Dominion Iron Company. From them, mostly, and occasionally a few from the American Steel & Wire Company.

MR. DICKINSON: Which are those, iron or steel?

THE WITNESS: They are both, I guess.

MR. SEVERANCE: The Burden, of course, are iron shoes.

MR. COLTON: Mostly iron.

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. The Burden Company makes iron shoes?

A. Yes.

Q. And the American Steel & Wire Company makes both?

A. Yes.

Q. I have forgotten about the Old Dominion.

A. They are iron, I think.

MR. COLTON: Yes; the Old Dominion shoes are iron.

By MR. SEVERANCE:

Q. Do you sell more iron than steel, or more steel than iron shoes?

A. More iron.

Q. And do you get the bulk of your requirements in shoes from the American Steel & Wire Company or from these other concerns?

A. About 75 to 80 per cent. from the other concerns, or more.

MR. DICKINSON: Do you apply that to both steel and iron?

By MR. SEVERANCE:

Q. I mean, your entire requirements.

A. Our total requirements of horse and mule shoes; yes, sir.

Q. From whom, if anyone, do you buy poultry netting?

A. From the American Steel & Wire Company, Wickwire Brothers, the Ludlow-Saylor Wire Company——

Q. Where are they located?

A. St. Louis.

Q. And how do your purchases from the American Steel & Wire Company of poultry netting compare in amount with your purchases from these other concerns?

A. About 30 per cent. of our requirements, I should say, come from the American, and 70 per cent. from the others.

Q. Do you handle brads and tacks?

A. Yes.

Q. Where do you buy them?

A. From the American Steel & Wire Company and the H. C. Tack Company, largely.

Q. Have you any idea how that divides as between the American Steel & Wire Company and the other company?

A. At a guess I should say about half and half.

Q. Do you handle clothes line?

A. Yes.

Q. Where do you buy your clothes lines?

A. We get some from the American Steel & Wire Company, some from Malin, some from Broderick & Bascom—I do not recall definitely——

Q. Did you ever buy any from the Wright Wire people?

A. Yes; from the Wright Wire people.

Q. They have a big business in that line?

A. Yes.

Q. Could you give any estimate as to how your purchases from the American Steel & Wire Company compare with your purchases from these other companies in that matter of clothes lines?

A. My estimate would be about one-third from the American Steel & Wire Company.

Q. Do you handle door springs?

A. Yes.

Q. Where do you get them?

A. We get them from the Steel & Wire Company and Morgan.

Mr. Dickinson: You mean the American Steel & Wire Company?

The Witness: The American Steel & Wire Company, yes.

By Mr. Severance:

Q. Who gets the most of those?

A. Morgan.

Q. Mr. Simmons, do you remember the so-called Gary dinners, in 1907 and 1908?

A. I know of them, yes.

Q. Did you attend any of them?

A. No, sir.

Q. Did you read the accounts of those dinners in the papers?

A. Yes.

Q. Was it a fact that the proceedings were widely disseminated in the trade?

A. Yes; I should say it was very generally known in the trade.

Q. What was the situation in the steel trade at the time those dinners were being held?

MR. DICKINSON: I object to that because it is cumulative. It has been proven by a number of witnesses, and it unnecessarily cumbers the record with cumulative evidence.

MR. SEVERANCE: This happens to be a gentleman so much in touch with the whole situation that I think it may be useful to have his testimony on that subject.

MR. DICKINSON: It has been proved so often, and we have never proved anything to the contrary.

MR. SEVERANCE: You may answer.

THE WITNESS: The condition——

By MR. SEVERANCE:

Q. Just before you answer, I will ask you in answering that question to give the situation as you knew it in the wholesale and retail trade throughout the country, the general steel trade.

A. At what time?

Q. At the time the Gary dinners began, in the autumn of 1907, after the financial panic of that year.

A. The condition of the trade as a whole was very much demoralized, due to the panic, and there seemed to be a great lack of confidence on the part of everyone and absolute uncertainty as to the future, and what would be the trend of business. The fact that business conditions were fundamentally sound, and that optimism was what was needed throughout the country to prevent a serious crash, which would result in the bankruptcy of a great many concerns in the retail, wholesale and manufacturing lines, which would

probably carry with them financial institutions, was very evident. The fact that the steel manufacturers——

Q. (Interposing) Just a moment; I will put another question: What effect upon that situation, upon the public mind in the trade, was caused or brought about by those meetings, the so-called Gary dinners, which you state were widely published?

MR. DICKINSON: I object to that unless the witness is made acquainted with the Gary dinners and what followed from the Gary dinners, and the appointment of committees and sub-committees, and what action was taken by those committees, what effect that had in conjunction with the general effect of the Gary dinners.

MR. SEVERANCE: You may answer.

THE WITNESS: I am not quite sure that I understand your question, Judge.

MR. DICKINSON: No, that is not my question.

THE WITNESS: I think I remember what you said.

MR. SEVERANCE: His is an objection. Mine is the question. Read the question.

(The question was repeated by the stenographer.)

THE WITNESS: The fact that the manufacturers generally of iron and steel products were hopeful as to the situation, and were intelligently and conservatively inclined, was of great influence to cause the retailers and the wholesalers to sit tight and wait until things readjusted themselves rather than to lose their courage and let things get in worse condition, particularly at a time when the banks were so involved that they could not give any financial assistance to a concern that might need it; it was a balance wheel of trade, if you could call it that. The sentiment was the important feature, and the action of those manufacturers, as published in the newspapers, helped to strengthen the sentiment, and had it not been for the sane sentiment which existed then the results would have been far more disastrous commercially than they were.

By MR. SEVERANCE:

Q. What was the fact as to whether immediately following

the Gary dinners, and we will say along following that panic, prices quoted by the various mills were uniform or varying?

A. They varied exactly as they always had.

Q. Did the prices remain fixed at the same comparative level that they had been at the time the panic broke, or did they go gradually lower?

A. The level gradually declined.

Q. From your knowledge of the trade in steel products, obtained in these reports that would come to you from time to time and otherwise, will you state what would have been the effect of a demoralization in the steel market at that time, such as existed in the financial market, the money market?

MR. DICKINSON: That is objected to as irrelevant and also objected to as incompetent, because it asks the witness to base his answer upon reports which came to him, which reports were necessarily hearsay, and which reports are not shown to the court, and therefore the basis upon which he may give any opinion is not shown.

THE WITNESS: It would have brought about the ruin and bankruptcy of a great many concerns in all parts of the country.

By MR. SEVERANCE:

Q. Previous to the time the panic struck, business had been very active, hadn't it?

A. Yes, sir.

Q. Were stocks large?

A. Yes, sir.

MR. SEVERANCE: You may examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Simmons, you say that you have been the vice-president—how long has that been?

A. About eight years, I should think.

Q. How long have you been acting president?

A. About two years.

Q. You stated that you had agencies in various parts of this country, selling in the United States, selling very largely abroad——

A. Not very largely abroad.

Q. Well, strike out "largely"; selling abroad?

A. Yes, sir.

Q. That you carry almost everything in the general hardware line?

A. Yes, sir.

Q. That your business is entirely wholesale, and that it amounted to $21,000,000 a year?

A. Yes, sir.

Q. Then, supervising that kind of business for the last two years, I suppose, has required your attention in very many directions, and that your time has been largely taken up with questions of general supervision and policy; is that true or not?

A. Yes, sir.

Q. Now, in the last two years, since you have been performing the duties of president, and been performing these duties in a general way that I have described, to what extent have you been directly in contact with the question of purchases?

A. As I explained at first, I have been in direct contact with the placing of large contracts whenever the amount involved would run into large figures, say $50,000 or more; no arbitrary division. The head of the buying department, the officer in charge of that would bring the matter to me when he had the information boiled down in definite shape.

Q. You are speaking now of the last two years only, are you?

A. Since I have given up the personal direction of that department.

Q. Since when? I want to get the date.

A. About two and a half years.

Q. Then during that period, on the question of buying the larger class of purchases to which you have referred, the matter would reach you in a boiled down shape, would it?

A. Yes, sir.

Q. That is to say, somebody would tabulate certain matters taken from other sources, and that this information would come to you in that form?

A. By one of our officers in charge of that department.

Q. You did not do that tabulation yourself?

A. No, sir.

Q. Nor did you compare that tabulation with the original sources from which it was made?

A. No.

Q. Now, can you give us, Mr. Simmons, a little nearer idea of what class of purchases were not left to your purchasing agent, and were in this way passed upon by you personally within the last two and a half years? I mean now, in the class of products such as you have been buying from the subsidiaries of the United States Steel Corporation; you need not speak of anything else.

A. I have passed on all of our purchases of nails, barbed wire, fencing, sheets, tin plate, poultry netting, and in a general way by outlining policies rather than by handling each individual quotation on the small goods that go with these large lines, such, for instance, as staples and the sundries, nails and brads, and that class of goods. May I add in there, smooth wire? I said barbed wire; it is all wire.

Q. Do you mean to say by that, Mr. Simmons, that during the last two and a half years you have supervised all of the purchases in all of the different lines that you have just mentioned?

A. Yes, sir.

Q. That no purchases have been made by the Simmons Hardware Company for any of its supplies for any of its stores in any of the lines indicated, that have not passed under your personal supervision?

A. I will except from that what we might call "pick-up city buying," where, if we are out of a certain size of sheet iron, for instance, of which we have a cargo coming in tomorrow, we may buy that from some competitor in town to fill an order. That, of course, is bought regardless of price, but practically all of the other buying for all of our houses is done in St. Louis, and the contracts on that class of goods are placed to cover a large tonnage, with generally a maximum and minimum tonnage, and those have come under my personal supervision.

Q. Take the subject of door springs. Is that covered by written contracts?

A. I do not know whether it is now or not.

Q. What tonnage a year, and about what money value a year, do you buy in door springs?

A. That would be a wild guess. I should say $20,000 may cover it; that may be half enough or twice too much, but that is my general——

Q. You say it is a wild guess?

A. It is a wild guess, because I do not have that in my head, that tonnage. It is an unimportant item.

Q. Do you know, for the year 1913, whether or not your door spring purchases were covered by a contract or several contracts; I mean written contracts, or whether it was purchased in other ways?

A. No, I do not.

Q. Take clothes line for the year 1913; about what money value in clothes line did you buy?

A. I don't know.

Q. How much of that was covered, if any, by written contracts, and with what concerns were those contracts made?

A. I think practically none of it was covered by written contracts. We received quotations and we placed the business based on those quotations, but we have no written contract, as a general proposition, on those smaller lines.

Q. Do you know what money value you have bought this year, 1913, in clothes lines?

A. No, sir.

Q. Do you know from whom you have bought?

A. Yes.

Q. State from whom you have bought clothes lines for 1913?

A. We have bought from the American Steel & Wire Company, from the Wright Wire Company and, I think, from Malin; I am not sure about that for 1913.

Q. Is that all you can name—the American Steel & Wire Company and Wright—that you know that you bought from for 1913?

A. Positively, yes. We have had some from Broderick & Bascom, I think, but I am not sure.

Q. I believe you said you could not give the tonnage you bought altogether?

A. No, sir.

Q. And could you give the tonnage you bought from the American Steel & Wire Company?

A. No, sir.

Q. Could you give it approximately? I mean do you carry in your mind any approximate figures of it?

A. No, sir.

Q. Do you know the times of the year you bought from the American Steel & Wire Company in 1913?

A. No, sir.

Q. Do you know whether it was on written contracts or not?

A. I think not.

Q. Do you know what the bids were and from whom you solicited bids, and who made quotations, and what the relation of these bids was to each other, in those purchases?

A. No, sir.

Q. If I should ask you the same about door springs, in regard to bids and who made them and their relation to each other, could you give us any statement about that?

A. No; it would be the same on practically all of those small sundries. I have directed the general policy, but I have not handled the detail.

Q. What do you mean by your statement that you have not handled the detail?

A. I mean that, after directing in general what the policy of the house should be on those goods, the officer in charge of that department has considered the quotations and placed the business. I have not done so personally.

Q. Just state what lines of goods will be covered by that procedure.

A. The lines that were not mentioned in the other question. I gave you the lines that I did cover personally.

Q. Take brads and tacks. What money value of brads and tacks have you bought for 1913?

A. I don't know.

Q. Did the purchase of brads and tacks come under this general policy or not?

A. Yes.

Q. So you do not know anything about the tonnage you bought, the prices you paid——

A. No, sir.

Q. (Continuing) Or what the quotations were, or what their relation was to each other on brads and tacks?

A. No, sir.

Q. Do you know from whom you bought brads and tacks for the year 1913?

A. From my personal knowledge, no. I know what the general policy has been, but I do not know definitely that we have made those purchases; I have not seen the orders or the invoices.

Q. You could not say, then, what proportion you have bought from anyone in 1913?

A. No.

Q. I have asked you certain questions, Mr. Simmons, as to door springs, clothes lines and brads and tacks for the year 1913. I do not want to go over them, and if you will bear them in mind, I would like to ask you if I should address you those same questions for each year during the five years that you have had contact with the matter of purchase, whether your answers would be the same? If not, please give any answer you choose.

A. There were times during those five years when I handled those things personally, but I cannot give you the tonnage or the prices.

Q. Nor from whom you bought?

A. Except in general. I cannot tell when we bought from these various concerns.

Q. In any one year you could not tell?

A. No.

Q. Nor could you tell the proportion you bought from any one in any one year of your requirements?

A. I could not offhand, no.

Q. Nor from whom you got quotations, nor their relations to each other?

A. Not definitely. I could tell some of them, but I would not know that I included the list, nor could I tell when the quotations came from certain people. It was our custom to get quotations from all the makers of those goods—not necessarily every maker in the country, but from those that we thought could supply us.

Q. You are speaking, now, in a general way?

A. Yes.

Q. Of the general custom?

A. Yes.

Q. And you have no present knowledge in your mind of the relations of prices and quotations on any of those purchases for any of these years? Is that correct?

A. I have not, except in a general way I know the prices vary, as they do on every line we buy.

Q. You have spoken of prices varying. Do you mean by that that all these purchases that you carried in your mind, in which you speak of the prices varying, that there are some that disagreed with others, or that all of them, that each disagreed with every other, or what do you mean?

A. I should say that some disagreed with others.

Q. You do not know the extent, now, do you?

A. No.

Q. You do not carry in your mind the extent?

A. No.

Q. If one disagreed from all the others, that would be a variation, would it?

A. It would.

Q. And that would cover, generally, the expression that you have used, when you spoke of variation, would it?

A. It would cover it, yes.

Q. You do not undertake to say how many in any particular year as to any particular price varied from each other or coincided with each other?

A. No, sir; because I could not do so accurately.

Q. No; I do not suppose you could.

Now, take the subject of poultry netting: In the year 1913, in money value, what has the Simmons Hardware Company bought in poultry netting?

A. I could not give you an accurate guess at that. I do not know. We do not keep those records separate from others.

Q. Could you give the tonnage?

A. No, sir; it would be the same thing.

Q. Could you say whether it was bought under contracts or whether it was bought by verbal orders, or orders by letter,—I mean by written contracts, when I say "contracts."

A. I should say in most cases it was not bought by contract.

Q. Could you give any idea of the relative percentages of what was bought under contract and what was not?

A. I think in 1913 there has been none of it bought under contract.

Q. Then if you have a written contract for poultry netting for 1913 you do not now recall it? Is that correct?

A. That is correct.

Q. In 1913 how many different purchases were made in poultry netting?

A. Poultry netting is a seasonable item and as a rule arrangements are made at the beginning of the season, so that practically there is but one purchase made, and then orders or specifications are sent as the goods are needed.

Q. Well, now, Mr. Simmons, in regard to the purchase of poultry netting, what do you carry in your mind now, definitely, as to whom you bought poultry netting from in 1913, and when you bought it, and the tonnage or the money value? Just state now what you recall definitely on that subject.

A. We are buying poultry netting now from three different concerns, the American Steel & Wire Company, Wickwire Brothers and Ludlow-Saylor.

Q. But not under contract, as I understand you?

A. No written contract.

Q. Is there any contract at all, or do you order as you want?

A. We order as we want.

Q. Can you state when your last order was made to the American Steel & Wire Company, and what the tonnage was?

A. No, sir.

Q. Or the price?

A. Yes.

Q. You can give the price of the last order?

A. I do not know that I can tell you the price; that is on a discount. I know the relative figures. I mean that there is a long string of figures on a discount, and whether I could get the discount right or not, I do not know. I know we are buying five per cent. cheaper from Ludlow, Saylor & Company than we are from the American Steel & Wire Company.

Q. This year?

A. Yes.

Q. When did you buy last from the American Steel & Wire Company?

A. We are buying all the time, from day to day.

Q. You are buying?

A. Yes.

Q. Who makes those purchases?

A. They are made by the purchasing department. Our secretary is the head of that department; our secretary, Mr. P. D. Pres[illegible], is the manager of that department.

Q. How many purchases of poultry netting during the year 1913 have been passed upon directly by you, and if any, state the times and who made the purchases.

A. Purely the original arrangement at the time prices were submitted by all makers. Since then orders are sent in in quantities, sometimes 50 or 100 a day, and maybe none the next day. I do not see those orders.

Q. You do not see the orders, and you do not place them?

A. No; I have indicated where it should be placed, and on what basis.

Q. When did you indicate that?

A. The last time was possibly six weeks ago.

Q. When before that did you indicate it?

A. From ten to eleven months, possibly; a good while ago. You see, this is a seasonable item, and it was possibly

the beginning of last season, or during the last season, if there was any change in conditions.

Q. So ten or eleven months ago you indicated a policy which operated up to six weeks ago?

A. Yes.

Q. And then six weeks ago you indicated the policy which has operated up to the present time?

A. Yes.

Q. Well, now, do you know, during that part of the eleven months running up to the six weeks ago, dividing it by those two periods, what proportion of the poultry netting was bought from the American Steel & Wire Company?

A. This is up to the six weeks ago?

Q. Yes.

A. About 45 per cent.

Q. Now, you say about 45 per cent. Do you know what the whole tonnage was during that time?

A. No, sir. I say that because we decide on the various percentage that each concern gets, based on their service and their prices, and also on what other commodities they can ship with it. We ship with the American Steel & Wire Company's goods fencing and nails and wire, which we cannot ship from Ludlow-Saylor.

Q. Then the question of apportioning amounts is not based on the price of any particular commodity, but you take into consideration the question of other commodities that may be shipped with it?

A. Sometimes.

Q. You say "sometimes."

A. I mean we sometimes give the American a certain percentage of our total requirements, and from that share we take the netting that is to be mixed with nails.

Q. Now, you say a certain percentage of your total requirements; in everything that you buy of the character that they make, is that what you mean?

A. No, I mean in netting.

Q. Well, then, in determining where you will place your netting you are not controlled merely by the price of netting,

but to some extent you are controlled by the question of service?

A. By service.

Q. And by the consolidation of this shipment with other things that you get?

A. Yes; that is included in the word "service."

Q. It is not a service, however, that is performed by the seller in the making of the article, but it is an incidental thing that comes from the fact of shipping things together—that character of service?

A. Yes, and service is the most important item in our business to-day that we pay for.

Q. I am getting at the particular service that you have in your mind, and that is the question of consolidating shipments?

A. In that case, yes.

Q. Well, that is the only case I am talking about.

A. That is correct.

Q. Did you make, eleven months ago, a general order, putting a certain percentage of your purchases with the American Steel & Wire Company? If so, just state what percentage you put with them, and what percentage with their competitors.

A. My recollection is that I determined to give them 40 per cent., in round figures, of the requirements for last season.

Q. In what?

A. In netting.

Q. Now, six weeks ago, when you made a new determination, what percentage did you give them?

A. Twenty-five per cent. Their price was out of line, and that practically covers the goods that we ship with other things, which we cannot get from some outside concern.

Q. What other persons, six weeks ago, did you apportion your orders of poultry netting with?

A. With Wickwire Brothers, about 25 per cent., for the same reason; and 50 per cent. to Ludlow-Saylor, who had the best price.

Q. Now, what was the price that you paid for poultry netting eleven months ago, or rather, the price upon which you based that order of 45 per cent.?

A. I cannot tell you. As I say, it is a discount; it starts with 80 or 85 per cent. off, and then runs four or five 5's, and then maybe 2 and 7. I do not carry in my head how many fives we had at that time.

Q. Now, do you know, at that time when you fixed this policy, what other quotations you got and whose they were? I mean, of your own knowledge do you know?

A. Yes.

Q. Were those tabulated and put before you?

A. Yes.

Q. Then you only know in that way?

A. Yes, in practically all cases, with those tabulations the original quotations are fastened with a bunch of papers, and the thing tabulated on the top. I practically never look under the top.

Q. Then they might as well be somewhere else as to be there, so far as your knowledge is concerned?

A. Unless I have some occasion to refer to them, they might as well be somewhere else.

Q. And then, as I understand it, you said you did not compare them, but trusted the calculation to a subordinate?

A. I very seldom refer to it.

Q. Then you do not know what the quotations were eleven months ago, of your own knowledge, from the original papers?

A. No, sir; on a technicality I do not.

Q. We do not call that a technicality.

A. Well, I am talking business, and I thought you were asking for facts.

Q. That is what I want, and I think that is what I got when I asked you that question.

A. Yes.

Q. Now, coming to horse and mule shoes, in 1913 what tonnage of horse and mule shoes, or in value how much in horse and mule shoes have you bought?

A. I do not know, but I should say, in round figures, about eight or ten carloads.

Q. Is that just a guess?

A. Well, yes; that is a guess. I do not carry those figures in my head, have no occasion to have that information in my head.

Q. It might be much more or very much less than that?

A. Not a great variation either way; maybe two or three cars either way.

Q. You figure it is within two or three cars of it?

A. I think it is; yes, sir.

Q. How much of that was iron, how much steel shoes?

A. A very large proportion of it was iron.

Q. About what percentage?

A. Possibly 90 per cent.

Q. Now, of the steel shoes that you buy, what percentage did you get this year of the American Steel & Wire Company?

A. I think it is likely we get all of them, I cannot say definitely.

Q. Would that be the same for 1912?

A. Yes, sir.

Q. And as far back as your experience goes, when you have been in contact with prices, during this period of four or five years that you have been speaking of?

A. Yes, likely.

Q. Do you know whether they make any iron shoes?

A. The American Steel & Wire Company?

Q. Yes.

A. I do not know definitely.

Q. Then you do not know that you got any quotations from them on iron shoes then?

A. I cannot say definitely. I think we do.

Q. You said a while ago, didn't you, that you did not know whether they made them or not?

A. Yes.

Q. You don't know any more now about it?

A. I do not know definitely, no.

Q. And you do not state as a matter of recollection that you have gotten any quotations from them on iron shoes?

A. I don't know.

Q. From whom have you bought horse and mule shoes, taking the whole thing, iron and steel together, in the year 1913?

A. Old Dominion and Burden.

Q. In the year 1912 how many various purchases did you make of steel shoes in that year?

A. There is no way of telling. We order them as we need them.

Q. As you need them do you send orders to the American Steel & Wire Company?

A. Yes, or wherever we are buying shoes at the time, based on the quotation we have.

Q. I am speaking of steel shoes now.

A. Yes, probably. I cannot tell you definitely. I do not handle them.

Q. If you ordered them as you needed them throughout the year, you did not take any quotations on those orders as you needed them, did you?

A. Not on each order, no. We take quotations at different times to see how the market is going and place the business accordingly.

Q. That is just generally to inform yourself how the market is going, the feeling of the market?

A. Yes, sir.

Q. But you did not take any competitive bids in 1912 on steel horseshoes, and if so, from whom and when?

A. No, I think not, any more than if you call, writing for quotations, if you call that competitive bids, we did, yes, but we did not offer any specific tonnage and ask for bids on that specific tonnage, if that is what you mean by competitive bids.

Q. On steel shoes do you remember to whom you wrote for quotations and how often you wrote for quotations in 1912 or any of those years?

A. No.

Q. Or the prices or the relation to the prices in any of those years?

A. No.

Q. You cannot give us any information about that?

A. None at all.

Q. Now, bale ties, what in tonnage or money value in bale ties did you buy in 1913?

A. I cannot give you an estimate of that accurately.

Q. How near would you be willing to do that? Can you approximate it?

A. I could not even approximate it.

Q. Did you buy under contracts or from time to time?

A. I think we bought both ways; we had a contract with the American Steel & Wire Company.

Q. For 1913?

A. For 1913, I do not know whether we had one with anyone else or not.

Q. Now, what tonnage was covered by that contract, if you know, with the American Steel & Wire Company?

A. I don't know.

Q. When was that contract made?

A. Sometime last spring.

Q. You do not know the month?

A. No.

Q. Or the time of the month, of course?

A. No.

Q. I believe you said you did not know the tonnage.

A. No.

Q. Do you know the price?

A. No.

Q. How much of your requirements for 1913 have you bought from the American Steel & Wire Company in bale ties?

A. I do not know that, but it is a large percentage.

Q. Well, 90 per cent.?

A. No, I should say from 60 to 70 per cent. probably on a guess, possibly 75.

Q. And that has been so, has it, all these years that you have spoken about?

A. Well, in general, yes.

Q. Now, coming to the subject of tin plate. During the year 1913 how much in money value or in boxes have you bought in tin plate?

A. Our tonnage is about from 150 to 160 tons, say 160 tons of tin plate.

Q. Was that bought under contract or from time to time?

A. Both ways.

Q. What percentage was bought under contract?

A. I could not say definitely.

Q. These purchases that are not under contract I presume are made with great frequency, are they not?

A. Yes, sir.

Q. As your business demands require?

A. Yes.

Q. How many of these purchases do you now know came directly under you, and how many were handled by your purchasing agents?

A. I should say the bulk of them were handled by others; I did not see them.

Q. How about the contracts, was there one or more contract for tin plate for 1913?

A. There was only one that I remember personally.

Q. With whom was that?

A. The American Sheet & Tin Plate Company.

Q. Do you remember what that tonnage was?

A. No, I do not. It was largely for our special brands of tin plate. The tonnage was possibly 100 tons.

Q. I suppose you push your special brand all you can?

A. Yes.

Q. Well, now, what proportion of the tonnage of your tin plate for the year 1913 has been bought from the American Sheet & Tin Plate Company?

A. Possibly 60 to 70 per cent.—no, I guess more than that, 75 per cent.

Q. Would that apply to these other years?

A. Yes, sir.

Q. Just about the same?

A. Most of our tin plate came from the American Sheet & Tin Plate Company ever since its organization.

Q. And over this whole period that you have been speaking of?

A. We have very often tried other manufacturers without much success as to their quality or service.

Q. Now, Mr. Simmons, how long have they been making this plate for you?

A. I should say ten or twelve years or more.

Q. This is under your private brand?

A. Yes, sir.

Q. Didn't you have to assign these private brands to the American Sheet & Tin Plate Company?

A. No.

Q. You did not?

A. No.

Q. Did you see the original contracts under which they agreed to make this brand?

A. No, I do not think I did.

Q. Then you really do not know the contents of them, do you?

A. No, sir.

Q. Now, after that arrangement was made and found to be satisfactory I suppose so far as that was concerned it has just been a continuing arrangement?

A. In general, except that we have tried other manufacturers on those brands and have not had success either in the quality or in service.

Q. When was the last time that you tried anybody else on them, if you recall?

A. We tried Carnahan about two or three years ago. I do not remember definitely when.

Q. Well, now, that was two or three years ago?

A. Yes, sir.

Q. Did you try anybody else within five years?

A. Not to my knowledge definitely.

Q. Then so far as you now can state you only know of one trial made in the last four or five years?

A. Yes.

Q. And that was with Carnahan & Company?

A. Yes, sir. That is, of course, on our special brand stuff.

Q. Yes, that is what I mean.

A. Yes.

Q. Did they make some of it for you?

A. Yes, sir.

Q. And it was not so satisfactory?

A. No, sir.

Q. And since that you have not made any effort to change your arrangement with the American Sheet & Tin Plate Company?

A. That is right.

Q. Do you know of any other concern except Carnahan & Company that you have tried except the American Sheet & Tin Plate Company, to make this special brand for you?

A. Yes, sir; I know that it has been tried, but I did not try it, not what I understand you want me to say, that I know it personally.

Q. And that was before five years ago, was it?

A. Yes, sir.

Q. Now, coming to sheets, what tonnage of sheets has the Simmons Hardware Company bought in the year 1913?

A. About 27,000 or 28,000 tons.

Q. How much of that was bought under contract and how much of it on occasional purchases?

A. I should say roughly about 90 per cent. of it on contracts.

Q. With how many concerns have you got contracts for 1913 for sheets?

A. I can recall five. There may have been more.

Q. Give their names, now, will you?

A. The American, the Inland, the National Enameling & Stamping Company, the Wheeling, and the Youngstown. We buy from lots of companies, but I am not sure whether they were within that term or not.

Q. We are speaking, now, of written contracts for the year 1913.

A. Yes.

MR. SEVERANCE: You say you do not know whether they were under contract or not?

THE WITNESS: No; I say I do not know whether they were in 1913 or not.

MR. SEVERANCE: Oh, in 1913?

THE WITNESS: Yes; but I feel sure those were.

By MR. DICKINSON:

Q. How many contracts have you had for 1913 with the American Sheet & Tin Plate Company?

A. I do not think we have had more than one. I do not recall more than one.

Q. How many have you had with the Youngstown Company?

A. One, I think.

Q. Of course you have all those contracts and can produce them?

A. Yes.

Q. With the Inland how many?

A. Two.

Q. With the Wheeling how many?

A. With the Wheeling, one, I think.

Q. And with the National Enameling & Stamping Company?

A. I think one. Those contracts, as you understand, are elastic in the tonnage. The tonnage is up to a certain quantity, with a minimum.

Q. That is, they have a minimum and maximum clause?

A. Yes; but one contract frequently runs the whole year.

Q. Of your requirements in sheets for the year 1913, how much has been supplied to you by the American Sheet & Tin Plate Company?

A. Oh, possibly ten per cent. Their prices have been high all the year.

Q. And from the Inland how much?

A. Probably 40 per cent.

Q. And from the Youngstown?

A. About 20.

Q. And from the Wheeling?

A. About 5.

Q. And from the National Enameling & Stamping Company?

A. The balance; that would be about 25. I should say

about 25; I am not sure that I have given these percentages so that they total 100.

MR. SEVERANCE: I think it is just 100. That is the way I have carried it in my mind.

THE WITNESS: I did not carry it as I went along. I was simply trying to get it as close as I could to what I thought the figures ran.

By MR. DICKINSON:

Q. Yes, that is just 100. In the year 1912 what proportion of your requirements in sheets had you gotten from the American Sheet & Tin Plate Company?

A. About 40 per cent.

Q. For the year 1911, what per cent.?

A. About 60 per cent.

Q. And for the year 1910 how much?

A. About 60 to 65 per cent.

Q. And for 1909?

A. About 90 per cent.

Q. Your knowledge, I believe, goes back to 1908?

A. Yes.

Q. How much would that be?

A. Even more. When I took charge of it we were buying most everything from them, as we had been for several years.

Q. Almost everything of all kinds?

A. No; just of sheets.

Q. You said "most everything."

A. Most everything of what they make that we handle.

Q. Including 1909 and prior thereto, almost your entire requirements in sheets have been bought from the American Sheet & Tin Plate Company?

A. We bought the Apollo iron from the Apollo Iron Company before the formation of the United States Steel Corporation, and the demand for that was quite large, and we continued to buy from that same company very largely for a number of years after that.

Q. After it was taken over by the United States Steel Corporation?

A. After it was taken over by the United States Steel Cor-

poration, and until the other competition got into the field so that we could handle their other lines to better advantage.

Q. It was some time before that took place, was it?

A. It was some time, yes, before we could get the trade to take anything but Apollo iron.

Q. How long was it before others got into the trade that could compete with the Apollo iron?

A. I don't know, from my own knowledge.

Q. Were the Apollo sheets the only kind you bought up to 1908?

A. I did not handle the purchases then, and I can not tell you from my own knowledge.

Q. When you took hold, were they buying the Apollo iron only, in sheets?

A. No; there were other sheets as well, but the Apollo constituted a large proportion.

Q. In 1908 how many different contracts did you have for sheets with the American Sheet & Tin Plate Company?

A. I could not tell you.

Q. Well, with any of their competitors?

A. I don't know how many different contracts we had. I don't remember that far back.

Q. In 1909 you do not remember either?

A. No, sir; nothing further than I have told you, and as to those I am not positive.

Q. Do you remember from whom quotations were gotten for any of those years in 1908 and 1909?

A. The same general list that I gave in the first place, of people we have purchased from.

Q. You were giving the general list of people you purchased from, but I am asking you, now, if you can state that you remember that in 1908 and 1909, as a fact, you did take quotations?

A. Yes.

Q. Now, then, just state, for 1908, for any purchase that you recall that you made, from whom you took quotations and what part of the year it was.

A. I cannot say what particular purchase was based on

a quotation from certain particular firms. We had a long list of firms that we ordinarily got quotations from every time we wanted to buy; but as to which years we got quotations from which factories, I cannot say.

Q. And sometimes you got from some and sometimes from all?

A. Yes.

Q. You did not always get them from all?

A. As a general proposition we did, but not always, probably.

Q. Not always?

A. No.

Q. You could not state in 1909 the particular ones you got quotations from?

A. No.

Q. Nor what the quotations were?

A. No.

Q. (Continuing) On any given purchase?

A. No, sir.

Q. Or what the relation was between those quotations; what relation they bore to each other?

A. No.

Q. Is that so as to each of these other years down to and including 1912, on sheets?

A. That is so, yes; that I cannot tell you definitely who we got prices from, or how much that variation was.

Q. Or what the quotations were?

A. No, sir.

Q. For any of those years?

A. That is right.

Q. Well, now, can you state for how many of those years how many were alike and how many were different?

A. No, sir; I could not, nor any other year.

Q. Nor any other year?

A. No.

Q. Now, take the subject of nails, Mr. Simmons; in the year 1908 what amount of nails did you buy, either in tonnage or value, either way that you can get at it?

A. I could not tell you.

Q. In 1909?

A. I can tell you in round numbers that our purchases ran about a million dollars a year in that class of goods.

Q. A million dollars a year in what?

A. Nails and barbed wire, and the few sundries that go with them.

Q. But you do not know what percentage it was in nails?

A. No, sir.

Q. Now, what percentage of that went to the subsidiaries of the United States Steel Corporation?

A. At what time?

Q. Take the year 1908.

A. Possibly 60 per cent.

Q. And 1909?

A. About the same.

Q. 1910?

A. Less, say 50 per cent.

Q. And in 1911?

A. About 50 per cent.

Q. 1912?

A. Slightly less, from 45 to 50 per cent.

Q. So up to 1912 you never got less than 50 per cent.?

A. That is right.

Q. And in 1912, from 45 to 50?

A. Yes.

Comparatively few of the outside mills have a large enough capacity to supply us promptly enough and not give us more than they can afford to give to any one customer.

Q. Then their capacity and their largeness had great weight with you in dealing with them?

A. In some cases; it is a question of service.

Q. You spoke about capacity, and I am asking whether or not the question of capacity did not have a large influence with you in making your purchases?

A. We had no interest in their capacity if they could give us the service; we did not care how much they made if they made enough for us.

Q. But they did make in large quantities; is that a fact?

A. Well, "large quantities" is a relative term.

Q. They made more than anybody else?

A. The Steel Corporation, yes. I did not understand your question.

Q. And you bought more than anybody else?

A. Yes, sir.

Q. And is it not the fact that the largeness of their capacity had a great weight with you in placing your purchases?

A. Yes.

Q. Is it not a fact also that the size of your business and the extent of your purchases were of great advantage to you in making purchases?

A. Yes.

Q. That is always so, is it not?

A. Yes.

Q. Prior to 1908 had not your purchases in wire products been in excess of 60 per cent. from the United States Steel Corporation?

A. The facts are that they were, but I do not know it according to your interpretation.

Q. Well, you know it well enough to say it is a fact, though, do you?

A. Yes. You did not want me to say that a little while ago, but it is a fact that they were.

Q. It is a fact, is it not?

MR. SEVERANCE: Wait a moment; counsel has heretofore seemed to object to the witness' obtaining information from his own subordinates, which is placed on his table. Now, I assume in the answer of the witness he is giving the same kind of testimony on this question.

MR. COLTON: Why do you not object?

MR. SEVERANCE: I do not object, but I just want to put that on the record in connection with this question and answer.

MR. DICKINSON: Of course I have no right to criticise the form of your objection.

By Mr. Dickinson:

Q. What percentage of your purchases in nails and wire products, to the best of your knowledge, was bought in 1906 from the United States Steel Corporation?

A. I do not know.

Q. In 1905?

A. I do not know.

Q. Now, coming back to nails, in the year 1909 can you state from whom you got quotations in nails on any of the purchases for that year, and what relation those quotations bore to each other?

A. I cannot state definitely in 1909, no; my recollection is not sufficiently clear as to that particular year.

Q. You speak of definitely; you mean to say that you do not carry in your mind the names of the people who made the quotations?

A. Not that year; that is correct.

Q. Or what the quotations were and what their relations to each other were?

A. That is right.

Q. And how many were alike and how many were different?

A. No, sir.

Q. How about 1908?

A. The same applies to 1908.

Q. How about 1910?

A. In 1910 we had quotations from Jones & Laughlin and from Wickwire. That is all that I am sure of in 1910.

Q. Did you have them on all your purchases or some purchases?

A. We had them on all of them, I think.

Q. In 1910?

A. Yes.

Q. Now, can you state what they were for any of those purchases, or what relation they bore to each other?

A. No, sir.

Q. I suppose you have quotations from the American Steel & Wire Company, haven't you?

A. Yes.

Q. Because you bought from them very largely?

A. Yes.

Q. I will ask you about 1911.

A. The same would apply to 1911.

Q. You mean as applied to 1910?

A. Yes.

Q. How about 1912?

A. In 1912 we also had the Youngstown and the Pittsburgh Steel; and in 1913. And we had the Colorado Fuel & Iron in those years, but only for our western house, because they are not so fixed that we can handle them to advantage.

Q. Did you have Youngstown and the Pittsburgh Steel in any year prior to 1912?

A. I do not know definitely whether we had or had not.

Q. You cannot say?

A. I cannot say definitely.

Q. How many years did you have them from Jones & Laughlin, and how often?

A. Ever since they have been making nails, which is comparatively recently.

Q. Since when is that?

A. I do not know.

Q. And you never did buy from them?

A. I believe we have bought from them and are buying from them to-day.

Q. Take the year 1908, what percentage of your nails did you get from the American Steel & Wire Company?

A. I cannot tell you.

Q. 1909?

A. I cannot say definitely on those.

Q. Or 1910?

A. Didn't I give you an estimate on this before?

Q. On the whole thing you did, all wire products.

A. I cannot separate those, because all nails and wire products go together; the same contract will cover both, either nails or barbed wire, for example. You can take it out in either one way or the other.

MR. SEVERANCE: Or plain wire?

THE WITNESS: Yes, often.

By MR. DICKINSON:

Q. How would you take a bid, for instance, where some companies made some of these products and some did not?

A. The bid would be taken in the same way; when we come to place the order we could order only what they had.

Q. Would you sometimes be influenced by the entire order, and shipping together, where a person could supply a number of those things?

A. That would undoubtedly have some influence, yes.

Q. In placing your tonnage?

A. In placing our tonnage, after we had contracted with several different people.

Q. And so you do not always place it where the price on any particular thing was cheaper than others on that particular thing?

A. No, we are frequently buying from two different manufacturers at different prices.

Q. And you take the proposition in a concrete rather than in a separate form, sometimes?

A. I do not understand that question exactly.

Q. What I mean to say is, where you solicit bids for a variety of things, and some made some of the commodities and some made all, or a number, in determining the question of purchase you would look at the whole and not just compare separate items and award it on those separate items?

A. Yes.

Q. You mean to say, I have stated it correctly?

A. You have.

Q. Take barbed wire in 1908: do you know what tonnage you bought?

A. It is all included in the general figures; we have no separate records of any of them.

Q. Do you know the percentage of barbed wire that you bought from the American Steel & Wire Company in 1908?

A. No, sir.

Q. Do you know any other company that you bought barbed wire from in 1908?

A. I do not know definitely, no.

Q. Do you know the companies from whom you got quotations?

A. No, sir.

Q. Or the relation of those prices?

A. No.

Q. Or how they varied?

A. No, except I do not know of a case where they were all alike, therefore they did vary, but to what extent I do not know.

Q. And in cases, one may have varied from all the balance, or more may have varied; you are not giving any accurate details as to that?

A. No, sir.

Q. As to how many were alike, you do not know?

A. No, sir.

Q. Now, in 1909, did you get quotations from anybody except the American Steel & Wire Company on barbed wire?

A. I don't know.

Q. You cannot name any company, if you did?

A. I cannot name any other.

Q. Can you in 1910?

A. No, I cannot definitely.

Q. Now, coming back, Mr. Simmons, to smooth fence wire: how is that handled? You are not speaking there of fence, I suppose, but of fence wire?

A. Just smooth wire.

Q. In 1909 from whom did you get quotations on that?

A. That would come under the same heading as the other goods. There are one or two concerns that we have quotations from, Wright Wire Company, for instance; it comes in under the same heading as the other information you have there.

Q. You mean about barbed wire?

A. Yes, sir.

Q. Can you give for any of the years 1908, 1909, 1910 or 1911 from whom you got quotations on smooth fence wire——

A. No, sir.

Q. Wait a minute—and what the relation of the prices was to each other, or how many were the same, or how they varied; you cannot give us any definite information?

A. No, sir.

Q. Does that apply to all kinds of wire for those years?

A. How is that?

Q. The answers that you have given, would they apply to all those years?

A. Yes, sir.

Q. I am not sure but that I have asked you this question—if I have, I will trouble you to answer it again: Of all your purchases from 1908 down to 1913 of wire and wire products, and all the other classes of things that you have shown here that you bought from the United States Steel Corporation, of your entire requirements for those years in all of those things, in tonnage, haven't you bought more than 50 per cent. from the United States Steel Corporation?

MR. SEVERANCE: You do not mean price; you mean the total?

MR. DICKINSON: Yes, the total.

THE WITNESS: Probably we have, yes; I cannot answer that definitely. It is my judgment that we have bought that.

By MR. DICKINSON:

Q. What, in money value, would be the comparison of all your wire products with all of your steel products, including wire? I mean what percentage would it be?

MR. SEVERANCE: You mean in money?

MR. DICKINSON: Yes.

THE WITNESS: You mean our purchases from the American Steel & Wire Company?

By MR. DICKINSON:

Q. No; take all your purchases of all the products that you have been describing here; what percentage of that in money would be covered by wire and wire products?

A. I should say about 65 per cent.; that is, of course, a guess.

Q. In money, what would you estimate that at? It would be 65 per cent. of a million, would it?

A. No.

Q. I believe you said you purchased a million of wire and wire products, didn't you?

A. Yes, sir.

Q. What are all of your purchases, in money, of all the character embraced in that?

A. You have got some arithmetic there.

Q. Yes, I know.

A. Possibly a million and a half or a million and six hundred thousand; something around there.

Q. What is your total wire tonnage?

A. I don't know.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

GEORGE W. SIMMONS,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION (Continued)

By Mr. Dickinson:

Q. Now, Mr. Simmons, you were asked if you read the accounts of the Gary dinners in the papers. What did these accounts contain that you read in the papers, upon which you formed your judgment as expressed in your subsequent answers?

A. As I remember it now, my impressions at the time were that the decisions of the manufacturers were based on their judgment that the necessities of that emergency demanded very conservative action, demanded that there be no precipitate break in the general markets on any line of goods which would, undoubtedly, pull down with it a great many industries.

Q. And that was what you gathered from what you read, that that was the object and purpose of it?

A. Yes.

Q. Was that what you understood to be accomplished by it?

A. Yes.

Q. Without that you think that there would have been cutting of prices by somebody?

A. I think without some kind of a definite policy that there would undoubtedly have been a serious and heavy break in the general market on all that general class of goods.

Q. Those breaks come, do they not, by somebody selling below——

A. The kind of breaks I refer to do not come; I mean a very large break. I do not mean an ordinary cut in price, which causes the market to go up or down in some small degree.

Q. You mean a heavy cut, do you?

A. Yes; I mean a big cut.

Q. Did you have in mind any particular one that would begin that cut?

A. No.

Q. You just thought that somebody might?

A. I simply thought the uncertainty and the timidity on the part of every one, and their fear of the outcome of a very crucial situation would likely cause somebody to lose his head and make a big cut, thinking by doing so, possibly, to get some business which would otherwise not come to him.

Q. And then that would be followed by others cutting?

A. Yes; and probably a re-cut under that, and perhaps a demoralization all down the line.

Q. Your understanding was that the object and the effect of this was to prevent that, and to hold things in a stable condition?

A. Yes; that the object was to keep the general opinion, the general sentiment, on a fairly stable basis.

Q. And, as a result of that sentiment, that those things which you have just described would not take place?

A. Yes.

Q. As a matter of fact there was a stability following that, was there not?

A. I think so.

Q. You had no knowledge, had you, of any committees being appointed as the outcome of the Gary dinners?

A. No, sir.

Q. Or any subcommittees?

A. No, sir.

Q. Or what they did?

A. No, sir.

Q. You saw no advertisement, nothing in the papers about that?

A. No, sir.

Q. And you do not know how far that may have contributed, or what was done in that way, may have contributed to bring about this conservatism which you observed?

A. I do not know that; no, sir.

Q. You do not know either one way or the other about that?

A. I do not know anything about that phase of it.

Q. Or how far it may have entered into it as a factor?

A. Naturally not, no.

Q. Now, how long did that period of anxiety continue and how long was it before things which were affected by that general panicky condition resumed their normal state?

A. It is difficult to say, the change was so gradual; the market did go down after that time, and gradually reached the bottom point, whatever it was I do not remember, and then gradually came up again. What those dates were I do not remember; it is a matter of record.

Q. But it went down gradually?

A. Yes.

Q. And came up gradually?

A. Yes.

Q. And was not characterized by any severe cut in prices which was followed by other cuts in prices?

A. No, sir; it was normal, in other words.

Q. It was normal?

A. Yes, sir.

Q. How long before this uneasiness passed away that you speak of, in the public mind, which would have brought about failures?

A. It is difficult to tell, because it is entirely a gradual proposition. There were some very strong efforts made by a number of sources to inspire confidence in the people of the country at large in the fundamental conditions of the country, and all those various efforts undoubtedly tended toward the same end.

Q. These dinners began in the latter part of 1907, did they not?

A. I do not remember; it is a matter of record. I presume that is the time.

Q. Approximately, you think it was about 1907, do you not?

A. It was 1907, or early in 1908, somewhere along there.

Q. Was it a month or six months?

A. I don't recall it.

Q. Wait a minute. Was it a month or six months or a year before these signs of uneasiness that threatened panic passed off?

A. It is difficult to answer that question, as to what you mean by "passed off." The sentiment I think was made right from the start, when this general idea became thoroughly known throughout the trade.

Q. What I want to know is how long it was before people got over that extreme anxiety which you said might have led to failures and disaster.

A. Well, I cannot say definitely. I should say two months, two or three months passed.

Q. And after that, certainly within a year it had gotten back to normal conditions, so far as the general feeling of confidence was concerned?

A. Yes; in a general way I would say that was a fair estimate.

Q. How long did these Gary dinners continue?

A. I do not know.

Q. Were you speaking now especially in regard to the beginning and the effect at the beginning, or do you know how long they lasted?

A. I do not know anything about them, except the general impression I had, and the general impression which I think went to the trade at large of the purport of the dinners.

Q. And that was especially in connection with the condition of things that existed during the panic?

A. Yes.

Q. You stated "the fact that the manufacturers generally of iron and steel products were hopeful as to the situation and were intelligently and conservatively inclined was of great influence to cause the retailers and the wholesalers to sit tight and wait until things readjusted themselves, rather than to lose their courage and let things get in worse condition, particularly at a time when the banks were so involved that they could not give any financial assistance to a concern that might need it; it was a balance wheel of trade, if you could call it that."

Now, how long, with reference to those conditions, did they sit tight?

A. Possibly that expression "sit tight" did not convey a very definite meaning, but my idea was that the merchants should not become panicky and lose their heads and take such action on snap judgment which on more mature deliberation they might think against their best interests.

Q. Using "sit tight" in the sense in which you have used it, how long did they have to do that?

A. It is difficult to say; possibly from two to six months.

Q. Now, take the year 1909: how were the prices in the early part of 1909, so far as you can recollect? Were they characterized by normal continuity or characterized by any extreme change, and if so, when?

A. It is difficult to pick out a specified time of that kind, but according to my recollection, the prices were fairly well back to normal—do you mean as to scale?

Q. I mean, contrasting 1909 now with the particular panicky time.

A. I thought you referred to previous conversations.

Q. I am asking you how 1909 compared with other years, as to prices not being characterized by extreme conditions one way or the other.

MR. SEVERANCE: Will you please say what you mean by that, by "extreme conditions"? It is rather ambiguous.

By MR. DICKINSON:

Q. Do you know whether or not there was a break in 1909?

A. I do not now recall any.

Q. If there was a decided break in 1909 you do not recall it; that is correct, is it?

A. Yes.

Q. Do you know what the prices were in the various steel products which you have described, just anterior to the Gary dinners?

A. No, sir.

Q. Could you give the prices of any of them at all?

A. No, sir.

Q. Do you know what they were following the first Gary dinner, say the year following it?

A. No, sir.

Q. Do you know how they were at various parts of that year, with relation to the prices that prevailed in 1907?

A. No further than my previous remark, that they gradually went off and gradually went up again.

Q. I am speaking now between 1907 and 1908. Do you know whether the general average of prices of steel products was higher or lower in 1908 than in 1907?

A. My impression is that for the year 1908, the calendar year, they were lower than the calendar year of 1907.

Q. You think that all of them were, in all the steel products that you have described?

A. Yes; the general market. They generally go together.

Q. I mean the things you have described as having bought.

A. That is what I mean.

Q. You think they were lower in 1908 than they were in 1909?

A. That is my general impression, yes.

Q. Could you give the prices of those, for instance, nails?

A. No, sir.

Q. Wire products?

A. None.

Q. None of them at all for either of those years?

A. No.

Q. Do you know whether the prices of the American Steel & Wire Company were less in 1908 than they were in 1907, or were they the same?

A. I do not know.

Q. You do not know about that?

A. No, sir.

Q. Do you know whether they were more or less in 1909 than they were in 1908?

A. No, I do not remember; I do not know that. I do not remember when the bottom was reached. It is a matter of record.

Q. You say it is a matter of record: where is it a matter of record, Mr. Simmons?

A. It is recorded in all the trade journals.

Q. What trade journals?

A. I think the Iron Age was the title of that paper at that time. It was changed a couple of times since.

Q. Any other trade journal?

A. There are some others. That is the one I had reference to.

Q. The prices were recorded in that, were they?

A. Yes, every week.

Q. You read them, did you?

A. I read it generally; I do not say I read it every week.

Q. You read it generally for what purpose?

A. Current information.

Q. Do you regard those as the market prices?

A. The relative prices from time to time are the same.

Q. What do you mean by the relative prices from time to time?

A. I mean the prices appearing in the Hardware Age of

to-day bear the same reference in general to the price you can buy at as they would a year ago or next week.

Q. What is that? What do you mean by "in reference to the price you can buy at"?

A. It varies at times. Sometimes a merchant can actually buy at less than the figures shown in the Hardware Age and sometimes he cannot, but that the variation will be about the same one time as it will at another.

Q. I suppose his ability to buy at less would depend largely upon the quantities he wants to buy?

A. Sometimes that.

Q. And the inducement held in that way?

A. Yes; and sometimes the question of service and all the other things which enter into a merchandising transaction.

Q. Is that a sort of standard to look to or not?

A. Is what?

Q. The prices that are in the trade papers?

A. There are a good many merchants in the trade that keep posted through trade papers that have not other channels that are available to them.

Q. You have other channels?

A. Yes, sir; we have.

Q. Being a very large dealer, that gives you an opportunity that some others have not, doesn't it?

A. Yes, sir.

Q. Mr. Simmons, what do you mean by such a demoralization of the steel market as would have brought about at the time of the panic, or about that time, ruin and bankruptcy; what kind of demoralization did you have in mind?

A. I mean by that if the principal articles in iron and steel products which are frequently taken as a thermometer of the hardware trade in general had been badly demoralized that the hardware merchants who are our customers would not have felt free to buy more than the current necessities, but would have stopped in such a way as to cause them to be out of goods when their customers wanted them, and stop the business for us, and so the manufacturers and so forth all down the line.

Q. What kind of variation of prices among manufacturers would have answered to the kind of demoralization in prices that you have in mind?

A. Any very violent and radical drop in the general market on generally considered stable items would I think have produced that result.

Q. Have you ever in your experience seen such a drop that has brought about any ruin and bankruptcy in all parts of the country? If so, what was it?

A. I have not.

Q. Do you consider that if various manufacturers should quote different prices and competitive prices and seek business merely upon a basis of competition without any unfair methods, that that is the kind of demoralization that you have in mind?

A. No, sir; it is not.

Q. You do not mean to say that any cutting of prices among manufacturers would necessarily have brought about demoralization?

A. No, sir.

Q. Your opinion was based I infer from your knowledge of the trade in steel products which you obtained from different reports that came to you from time to time, and it was from that that you formed your opinion that the demoralization of the steel market would produce general injury?

A. That and other sources of information which we all have on which we base our judgment.

Q. Well, now, what outside of these reports did you particularly have in mind when you answered that question, if any?

A. Simply that I did not want it to be thought that those reports alone were the only thing I had to base my judgment on. As engaged in a large business enterprise, I naturally learn everything I can that bears on the case, and then make up my mind from the mass of facts.

Q. But you do not know now to what extent those reports entered in forming your judgment?

A. They had a considerable influence because our records

for a great many years have been extremely accurate, and we have a great deal of confidence in them.

Q. What kind of reports?

A. Made by our salesmen in accordance with definite instructions and the definite purposes for which that report is asked, by the salesmen making some report on the same day, each one covering his own immediate territory which he has traveled over for several weeks every year, and with which he is thoroughly familiar, and after we have taught him how to make the report and told him what we wanted, and when we get that we tabulate that so that we have a pretty accurate idea of any condition we want to investigate.

Q. You stated that the sentiment was the important feature in the action of these manufacturers as published in the newspapers helping to strengthen the sentiment. Were there any newspaper reports of these general conditions in the country that you were looking to?

A. I do not understand the question.

Q. I say when you speak of reports——

A. When I speak of reports——

MR. SEVERANCE: I think, Judge Dickinson, that you unintentionally have misled the witness.

MR. DICKINSON: I do not think I can mislead this witness.

MR. SEVERANCE: I know you cannot if you ask him a question on an ordinary subject, but you are asking him to tell what he meant by a certain answer. If you will look at the context I think you will find that the reports he is talking about there were the reports of the action of the manufacturers of steel, not reports he received from his customers, if I am not mistaken; I may be wrong.

MR. DICKINSON: Reports he received from what?

MR. SEVERANCE: From his traveling men.

MR. DICKINSON: That is just what I thought. I agree with you, and I thought he thought I was referring to reports from his traveling men. I will read the question.

"Q. From your knowledge of the trade in steel products obtained in these reports that would come to you from time to time and otherwise, will you state what would have been

the effect of a demoralization in the steel market at that time, such as existed in the financial market, the money market?"

And you answered:

"It would have brought about the ruin and bankruptcy of a great many concerns in all parts of the country."

Now, my question is what reports do you refer to there?

A. Our own reports covered through our salesmen and customers direct.

MR. SEVERANCE: You see the words "and otherwise" are included there.

MR. DICKINSON: I read the whole question.

MR. SEVERANCE: I know you did, but before, as I understand, you did not.

By MR. DICKINSON:

Q. You stated previous to that: (Reading)

"The fact that the manufacturers generally of iron and steel products were hopeful as to the situation, and were intelligently and conservatively inclined was of great influence to cause the retailers and the wholesalers to sit tight and wait until things readjusted themselves, rather than to lose their courage and let things get in worse condition, particularly at a time when the banks were so involved that they would not give any financial assistance to a concern that might need it. It was a balance wheel of trade, if you could call it that. The sentiment was the important feature, and the action of those manufacturers, as published in the newspapers, helped to strengthen then the sentiment, and had it not been for some sentiment which existed then, the results would have been far more disastrous commercially than they were."

Reading you that, I ask you if, in your answer to the former question I read, where the answer contained the words "obtained in those reports"——

A. Does that follow immediately now?

Q. No, it does not follow immediately.

A. I cannot tell you, then, definitely.

Q. Suppose you look at it. It is right on that page there, and you can read it all you want to. (Handing copy of transcript to the witness.)

MR. COLTON: It begins on the preceding page.

THE WITNESS: I have the part that Judge Dickinson read. In your question, when you say "From your knowledge of the trade"——

By MR. DICKINSON:

Q. That is not my question; it is Mr. Severance's question.

A. Well, in the question, then: "From your knowledge of the trade in steel products, obtained in these reports that would come to you from time to time"—there have been no reports mentioned for a couple of pages. There is something else that has been discussed—the question of price and all that; but I assume that to mean the reports from our salesmen, made through our organized system.

Q. Did these reports, made to you by your salesmen, show anything other than the business and the status of the business that they were soliciting?

A. Yes, sir; they showed anything we wanted to know about the respective territories into which we inquired. They show the current conditions; they show the sentiment of people on almost any subject, in business or out of it; and they show business prospects, crop prospects—we frequently have crop reports—and general information of that sort.

Q. Your judgment was not based on any crop reports, was it?

A. No, sir; but you asked me what kind of reports we got from our salesmen.

Q. I know, but you mentioned that. Do you not know that there was a cut in prices in 1911?

A. I do not know just what you mean by "cut in prices." There are always cuts in prices.

Q. But I mean to say that, as compared with a comparatively regular status in prices, was there not a cut in prices which was followed by a very general, sharp reduction for a period of time, so that it was known in trade parlance as a cut in price?

A. I don't recall it as anything unusual.

Q. Have you known any period where the change in price

was so sudden and so general that you would call that a period of open market?

MR. SEVERANCE: What do you mean by "open market"?

MR. DICKINSON: I am asking the witness.

THE WITNESS: I cannot now recall any period which was preceded by a violent cut such as I assume you refer to.

By MR. DICKINSON:

Q. Do you know anything about a cut being made by the Republic Steel Company which was generally known throughout the trade, which was followed by a general cut?

A. On what items?

Q. Steel products.

A. That is pretty general.

Q. Well, say bars and sheets?

A. We are not interested in bars.

Q. Well, sheets?

A. No; I do not recall that cut.

Q. If there was anything of that sort you do not know anything about it?

A. I do not recall any such cut.

Q. You are not familiar, then, are you, with any products except those generally made by the American Sheet & Tin Plate Company and the American Steel & Wire Company?

A. According to your definition this morning, I am not familiar with anything except those particular items that I have mentioned that we buy.

Q. Yes; and they are made by those as well as some others?

A. Yes, sir.

Q. You are not familiar with anything which they do not make, are you?

A. It depends upon what you call "familiar." We naturally watch the price of pig iron, as the basis of the whole thing.

Q. I mean, buy and sell?

A. No, sir.

MR. SEVERANCE: What do you mean? I do not understand the question.

MR. DICKINSON: I mean whether you buy and sell any kind of wire and steel products which are different from the general character of products, wire and steel products, and tin, made by the American Sheet & Tin Plate Company and the American Steel & Wire Company. Now, do you understand that, Mr. Simmons?

THE WITNESS: Yes, sir. We do not buy anything except what is made by those concerns; for that reason we have no personal knowledge of it.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. You do not buy any other class of steel products except the sheet and tin plate and the wire products?

A. No, sir.

Q. That is, you do not buy bar steel?

A. That is what I mean.

Q. Do you keep in general touch with the steel trade? You say you do with the matter of pig iron, the foundation?

A. Yes.

Q. And the same trade journals that you speak of discuss all branches of the steel trade, do they not?

A. Yes.

Q. You stated that with reference to the market following the Gary dinners, in answer to Judge Dickinson, certain stability was produced. By that did you mean that all mills or manufacturers from whom you received quotations quoted uniform prices?

A. Not at all; simply that the general relative prices remained at about the same level; but the prices varied as much after that time as they did before, as applied to each specific concern.

Q. Now, you say that you read the trade journals, and you said something about the prices at which you purchased. Are those trade journal quotations the actual prices at which you bought?

A. No.

Q. They are a good guide, are they, in general?

A. Yes.

Q. They are approximate prices?

A. Yes.

Q. You stated in answer to Judge Dickinson that you had had your tin plate at one time made by Carnahan, and you said something about having it made by other people, but you did not know it in the way that counsel wanted you to know it. What did you mean by that?

A. Simply that I did not place the order with the other people. It was done by the people before my time in charge of that department.

Q. Was it done while you were an officer of the company?

A. Yes, while I was an officer, yes; certainly while I was in the company; maybe before I was an officer.

Q. And did you become cognizant of the fact as a person connected with a company would become cognizant of the business of the company?

A. Yes.

Q. And either at the time these other tin plate manufacturers were making your tin plate, or at the time that Carnahan made it, did you ever hear any objection made by the American Sheet & Tin Plate Company that you had no right to have your tin plate made by persons outside of that company, by reason of any assignment of brands or otherwise?

A. None whatever; our brands belong to us.

Q. You spoke in answer to counsel of certain tabulations of quotations that were placed upon your desk for examination, accompanied by the original quotations made by persons selling you goods or offering to do so, and you said that you only rarely looked at the original quotations?

A. Yes.

Q. In the cases where you have had occasion to look at quotations which accompanied these tabulations have the quotations which you have looked at been the same as to the respective items appearing on the tabulation, or different?

A. I never saw them different; they have always been the same.

Q. Who makes those tabulations for you?

A. The head of the buying department; the officer in charge at present is our secretary, Mr. Preston.

Q. Do you conduct your operations as a buyer on the assumption that those tabulations correctly show the quotations?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: I do.

By MR. SEVERANCE:

Q. Has it ever come to your attention, in any case in placing orders upon the assumption that those tabulations were correct, that the price was different from that shown upon the tabulation?

MR. DICKINSON: Objected to as irrelevant?

THE WITNESS: No.

By MR. SEVERANCE:

Q. Is it or is it not the general policy of your house to buy your requirements upon the best terms you can secure?

A. It is.

Q. Has it always been, so far as you have known?

A. It has.

Q. Do you receive any calls at your establishment, or have you, from agents of various mills that are seeking business?

A. We do.

Q. Are those frequent or infrequent?

A. Frequent.

Q. What is the fact as to whether the producers of steel products generally have agencies in St. Louis?

A. I think all the larger ones and most of the smaller ones have.

Q. St. Louis is a very large distributing market, is it not?

A. Yes; one of the largest in the country.

Q. You were interrogated by counsel with reference to sheets, and you spoke about it being some time before the trade would take anything but Apollo sheets; what did you mean by trade, generally, or your trade?

A. I spoke of our trade, to whom we have been selling Apollo sheets bought from the Apollo Sheet & Iron Company

before the Steel Corporation was formed, and who had naturally got into the habit of using that brand.

Q. That is, your trade had gotten into the habit of using it?

A. Yes.

Q. What I wanted to know was whether by your answer to counsel you meant the trade generally or your trade?

A. Our trade. There were a number of other brands used on the market.

Q. Has there been any increase in the number of people soliciting your business in sheets?

MR. DICKINSON: That is objected to as not proper examination.

THE WITNESS: Yes.

MR. SEVERANCE: You stated in answer to counsel that you were unable to tell, in the case of those varying bids made to you whether there would be one varying from the others, or more varying. Would the fact that all of a large number of quotations made to you were alike with the exception of one be usual or unusual?

MR. DICKINSON: I object to that as not proper re-examination.

MR. SEVERANCE: It was brought out by you.

MR. DICKINSON: No, you brought it out and I cross examined on that.

THE WITNESS: Yes; if there were a large number of quotations and they were all alike but one it would be unusual and quite noticeable.

By MR. SEVERANCE:

Q. Counsel was asking you with reference to the purchases prior to 1908, and you stated in substance--I cannot give the exact language from my notes—that you did not know that in the way that counsel seemed to demand that you should know it. What did you mean by that answer?

A. That I had not personally handled that particular transaction and personally read the quotation, or seen the

order or invoice personally with my own eyes, but I know that in a general way, as anybody in a general merchandise business to-day knows what is going on in his business.

Q. If I understood you correctly you stated this morning in answer to counsel that you purchased or received quotations on barbed wire or plain wire or fence wire from Wright. Did you intend to so testify?

A. From Wright?

Q. Yes, I understood you to say that?

A. We buy clothes line wire from Wright mostly, but I do not think Wright makes barbed wire.

Q. Whom do you buy most of that stuff from, of that kind?

A. Most of our wire comes from the American Steel & Wire Company.

Q. Whom do you get your smooth wire from, fence wire?

A. That comes from the American Steel & Wire Company.

Q. Do you buy from other persons too?

A. Yes.

Q. Do you remember from whom—and I will include in that line all that go together, plain wire, fence wire, smooth wire, barbed wire, nails, poultry netting, staples, and so on?

A. As a rule when we make a contract for goods of that sort we call it nails, because it includes a lot of other things that go on a tonnage basis, and we have contracts with a number of different manufacturers, some of whom make the entire line, and some of whom make a part of the line, as I explained this morning. The names of those manufacturers, as I recall it, were Jones & Laughlin, Youngstown; Colorado Fuel & Iron, American Steel & Wire Company and the Pittsburgh Steel Company.

Q. Do you buy any from Wickwire?

A. We buy nails from Wickwire. He does not make barbed wire, I believe. Nails and poultry netting we buy from Wickwire.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. Do these brands cover terne plate, the private brands?

A. Yes.

Q. What are the names of those brands?

A. The Jupiter and Laclede. I do not now recall whether there are any more or not.

Mr. Severance: Are these terne plates you are speaking of?

The Witness: Yes.

By Mr. Dickinson:

Q. The other terne plate brands, what are they?

A. The same brands.

Q. Those are the only two brands you have?

A. Those are the only two I recall. Oh, no. Delmar is another one.

Q. Are they used both on terne plate and tin plate?

A. Yes.

Q. I believe you said you had not seen those contracts; is that a fact?

A. What contracts?

Q. The contracts with the American Steel & Wire Company.

A. Yes, sir; that is a fact.

Q. You do not know the contracts?

A. I do not, from having seen them.

Q. And if they provide for the assignment of these brands you don't know that, do you?

A. If they do I don't know it; no, sir.

Q. And you do not know that they do not, do you?

A. In the same way that I said this morning; I have not seen them.

Q. You have them, copies of them?

A. Yes, sir.

Q. I will ask you to produce them, will you?

A. Yes, sir.

Q. I want your contracts now with the American Sheet

& Tin Plate Company in regard to these brands; just send them to Mr. Severance.

A. I will send you anything I can find on that score.

Q. And also the American Tin Plate Company?

A. That is the predecessor of the Sheet & Tin Plate Company?

Q. Yes.

A. Yes, sir.

Q. Do you know whether or not those contracts provided that if at any time the manufacturing company could not supply you, then without prejudice you would be at liberty to have them made by others?

MR. SEVERANCE: Objected to on the ground that the witness has stated over and over again that he has not seen the contracts. Counsel has asked him to produce them, and therefore he should not interrogate him as to their terms.

THE WITNESS: I don't know.

By MR. DICKINSON:

Q. You stated at one time that you got the Carnahan Company, I believe, to make you some tin plate?

A. Yes, sir.

Q. What I am trying to get is whether or not that was provided for, according to your understanding, with the American Tin Plate Company or the American Sheet & Tin Plate Company in these contracts, and whether the condition had arisen which authorized you to go to some other manufacturer. Do you know anything about that?

A. My impression is that we have no limitations whatever.

Q. Where are the brands; where do they stay?

A. They stay on the tin plate.

Q. I know, but they are used, are they not, by the manufacturers?

A. They are used by us, just as we have hundreds of other brands.

Q. I understand the brand is put on by the maker, isn't it?

A. Yes, sir.

Q. Do they make them themselves?

A. You mean the stamp?

Q. Yes.

A. Yes, sir.

Q. You do not own the stamps?

A. I don't know whether we do or not. It is just a small matter; it does not amount to anything; they can not use it for anybody else.

MR. DICKINSON: That is all.

By MR. SEVERANCE:

Q. Before placing your order with Carnahan, you did not ask the permission of the Sheet & Tin Plate Company?

A. No.

Q. When your different orders were placed with others you did not ask their permission, so far as you know?

A. No, sir.

By MR. DICKINSON:

Q. Did you say you placed the order with Carnahan yourself?

A. No, I do not think so.

By MR. SEVERANCE:

Q. I will ask you: What did you have to do with placing the order with Carnahan?

A. I authorized the giving of the business to Carnahan for that class of goods. I did not actually place the order with him; I had no negotiations with him directly myself.

Q. But you authorized it to be done, and you know that he did make you plate?

A. Yes, sir.

Q. And before giving that authorization did you ask the permission of the American Sheet & Tin Plate Company?

A. No, sir.

By MR. DICKINSON:

Q. Have you given the year?

A. I do not recall it; it was three or four years ago.

JULIUS KAHN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Mr. Kahn, where do you live?

A. Detroit, Michigan.

Q. What is your business?

A. I am president of the Trusset Concrete Steel Company.

Q. How long has that company been in business?

A. Since October, 1903.

Q. How long have you been the president of the company?

A. Since its organization.

Q. What is the business transacted by the Trusset Concrete Steel Company? What is the character of its business?

A. The Trusset Concrete Steel Company manufactures concrete reinforcement, expanded metal, metal lath, metal sash; it buys and sells kindred products such as terra cotta tile. By "kindred products" I mean products entering into fireproof construction.

Q. Where are your works located?

A. Our works are located at Youngstown, Ohio, and at Detroit, Michigan.

Q. Are you connected with any other company transacting the same kind of business?

A. I am an officer of the Trusset Concrete Steel Company, Limited, of Canada. I am a stockholder of a company by the same name whose headquarters are in London, and I am interested through patent rights with the Deutsche Kahn Eisen Gesellschaft at Berlin, Germany.

Q. Where is the plant, if any, of the English Company which has its headquarters in London?

A. At Shropshire.

Q. And where is your plant in Germany located?

A. At Duesseldorf.

Q. What is the annual tonnage that you manufacture at your works at Youngstown and Detroit?

A. It would run from 60,000 to 70,000 tons per year.

Q. And what is your tonnage in Canada?

A. About 12,000 tons.

Q. And in England?

A. About 10,000 tons.

Q. And in Germany?

A. About 12,000 tons.

Q. What classes of steel material do you purchase, if any, for use in these various plants?

A. We purchase steel bars, sheet iron.

Q. You mean sheet steel?

A. Sheet iron and steel.

Q. Commonly called iron?

A. Yes; I meant to say sheet steel; special rolled sections of various kinds, structural shapes; that is about all.

MR. COLTON: Does that apply to structural shapes, or do you mean structural shapes in addition?

THE WITNESS: Structural shapes in addition.

By MR. SEVERANCE:

Q. Where have you bought your supplies of heavy steel outside of the sheets?

A. From the Carnegie Steel Company, principally. From the Republic Iron & Steel Company; Lackawanna Steel Company; the Inland Steel Company. I am giving you most of the companies, although of some of these companies the quantities purchased are comparatively small.

Q. Where have you purchased your supplies of sheets; you said you bought sheets?

A. From the American Sheet & Tin Plate Company, the Youngstown Iron & Steel Company, the Youngstown Sheet & Tin Plate Company and the Brier Hill Steel Company.

Q. Have you bought either class of your requirements from the Jones & Laughlin Company at any time?

A. We probably have, but not in any quantities to speak of. I do not recall any specific purchases.

Q. Have you bought any of either class from the Colorado Fuel & Iron Company at any time?

A. We have bought some bars from the Colorado Fuel & Iron Company, but not largely.

Q. For consumption in what place?

A. Generally for Arizona, Colorado and Nevada, or the immediately neighboring territory.

Q. Eliminating for the purposes of this question the matter of unusual shapes that you speak of, what has been your practice as to receiving quotations of various mills before placing your requirements?

A. We are, as a rule, solicited by all the important mills. We place our orders based upon our best judgment as to the service which we are to receive, and the price which has been given us.

Q. Taking these ordinary products—I will come to the unusual things later—the ordinary products like plain bars, structural, sheets, what has been the fact as to whether or not the quotations made you by the various mills have been uniform or variant?

A. They have varied considerably.

Q. Has that been the case during the entire period that you have been in business?

A. Yes, sir.

Q. You stated that you gave the larger part of your heavy tonnage to the Carnegie Steel Company. How about your requirements in sheets? How has that been divided as between the American Sheet & Tin Plate Company and other concerns from whom you have purchased?

A. We have given about one-third of our sheets to the American Sheet & Tin Plate Company, and the remaining two-thirds have been divided between the Youngstown Iron & Steel Company, the Brier Hill, and the Youngstown Sheet & Tube Company.

Q. Have all of those companies been in business during the entire period of your experience?

A. The Brier Hill was organized as a combination of various companies only within the last year or two.

Q. When you spoke of buying from the Brier Hill, did you mean the companies that went into the Brier Hill?

A. Previous to the inception of the Brier Hill we bought of the companies which now make up the Brier Hill.

Q. That is what I thought. Outside of these more or less standard classes, what if anything do you have in the way of peculiar sections that you buy?

A. We have rolled for us special sections used in the manufacture of steel sash, special sections used for concrete reinforcement, and also special sections for expanded metal.

Q. Where do you get those? I mean, now, so far as applies to your American business?

A. Those are purchased entirely—I will say practically entirely—from the United States Steel Corporation.

Q. Why is that?

A. Because the Steel Corporation has at all times assisted us in the development of our business, or the enlargement of the scope of our business, by encouraging us to devise new sections. They have encouraged us by preparing the rolls for these new sections, making it possible thereby to enlarge our business and, in fact, build up our business.

Q. Have you at any time endeavored to get other mills to put in rolls of a peculiar type to roll these peculiar sections?

A. We have, at one time or another, tried almost every rolling mill to get them to put in these special rolls for us, and we have met with great discouragement, practically everywhere, in this development of our business.

Q. What is your tonnage per annum in these various kinds of peculiar sections?

A. Twenty thousand tons in the United States.

Q. Can you describe some of those sections; tell what they are used for?

A. These sections are used in the manufacture of steel sash and expanded metal.

Q. Do you have something that you call a washboard section?

A. Our washboard section is used in the manufacture of expanded metal.

Q. Just describe that; tell what it is.

A. It is a section of steel, corrugated on one face and flat on the other, resembling very much a washboard.

Q. Does that require a special set of rolls to make it?

A. Yes.

Q. And you get that from whom?

A. We purchase that from the Carnegie Steel Company.

Q. Did they have to install special rolls to roll it?

A. They did.

Q. Is there any of your output, that is, your completed material, that you put out that is sold in the market in competition with similar material made by any other steel mills, mills that produce the steel itself?

A. All of our concrete reinforcement is in competition with materials made and sold by the steel mills.

Q. Name some of the mills that make and sell it.

A. The Carnegie, the Lackawanna, the Republic—all the principal mills.

Q. How heavy a tonnage is that?

A. That would run in the neighborhood of 50,000 tons for the United States.

Q. Is that sold in the market on a competitive basis as between you and the mills?

A. Yes.

Q. Are the prices quoted by the other mills selling them and yourselves uniform or variant?

MR. COLTON: I object to that on the ground that the witness will only know his own.

MR. SEVERANCE: He must know who gets contracts if somebody gets them.

THE WITNESS: That question must enlarge somewhat on the question itself. We sell a large portion, or the main portion of our concrete reinforcement by reason of the stock delivery which we make of that reinforcement. We carry very large quantities of the material in our warehouses. We furthermore furnish engineering designs which are used by the purchasers of this material, telling them how to place the material for the complete structure.

Through the services, therefore, which we lend to the consumer, as well as the quick delivery we are capable of giving them, we compete very successfully with the rolling mills themselves, who as a rule are very slow in their deliveries, and charge a material premium for warehouse materials.

By Mr. Severance:

Q. And you say there is about 50,000 tons a year in the United States?

A. Yes.

Q. Do you sell that in both small and large quantities?

A. Yes.

Q. I mean in small and large contracts.

A. Yes.

Q. Do you make your own prices on those?

A. Yes.

Q. Have your prices at any time been controlled by agreements between you and other makers?

A. No.

Q. In what parts of the United States do you sell?

A. All parts of the United States.

Q. Where do you buy your steel that is manufactured at your plant in Canada?

A. From the Steel Corporation at the present time entirely.

Q. Have you at any time bought from other sources?

A. In replying last I was referring to the reinforcing steel. We do buy sheets at the present time from England.

Q. What is the reason for buying sheets in England?

A. They are cheaper.

Q. That is just at the present time?

A. Just at the present time.

Q. Have you at times bought sheets in the United States for consumption at your Canadian mill?

A. Previous to the current year we have bought them only from the United States.

Mr. Colton: He spoke of buying all his product from the Steel Corporation except sheets.

MR. SEVERANCE: No, he did not say he bought them all from the Steel Corporation.

MR. COLTON: For Canada, I understood him to say.

THE WITNESS: We buy the reinforcing steel from Canada.

By MR. SEVERANCE:

Q. Mr. Kahn, from what mills do you get your supply of steel for your English plant?

A. I do not know where they are purchasing sheets from, but a large portion of the bars come from the Earl of Dudley's works, and also a large portion from the Krupp works in Germany.

Q. Have you bought any bars from the Steel Corporation for consumption in England, or any other class of steel?

A. Yes, we have bought considerable from the Steel Corporation, and we would probably purchase all of our bars from them if we could be assured of their delivery in England in good commercial condition. Owing to the frequent lighterage and the resulting abuse, the steel which has been sent to England from the Steel Corporation has not lent itself to our best advantage.

Q. How do the prices that you have paid the Steel Corporation for steel which you have used in England compare with the prices which you have paid it for steel you use in the United States?

MR. COLTON: You are speaking of delivered prices?

MR. SEVERANCE: Well, take the mill prices.

THE WITNESS: As a rule in late years we have been able to purchase cheaper in the United States than we have been able to purchase in Germany and Belgium, but that difference in price has been very materially in favor of the United States company as compared with the English or the Earl of Dudley's works.

By MR. SEVERANCE:

Q. Just explain that a little more fully. I do not quite understand the answer.

MR. DICKINSON: Read the question; I don't think he has answered it.

(The question was repeated by the stenographer.)

THE WITNESS: No, I did not answer that correctly.

By MR. SEVERANCE:

Q. You did not answer the question. Just answer it.

A. Those prices have varied somewhat; at times they have been practically the same. Very rarely have they been less than for England, and sometimes they have been more.

Q. How has it been within the last year or two? Have you paid the Corporation more or less for steel that you consumed in England than for the steel you used in this country?

MR. COLTON: We object to that as irrelevant, and as I understand it, we have a general objection as to everything subsequent to October 26, 1911.

MR. SEVERANCE: I thought you abandoned that. You have been interrogating the witnesses fully about everything since then.

MR. COLTON: We haven't abandoned it. Of course if they were examined on the direct, we would cross examine on it.

(The question was repeated by the stenographer.)

THE WITNESS: Do I understand your question to refer strictly to England or general export?

MR. SEVERANCE: I meant, to England; then I will ask another question.

THE WITNESS: During the latter part of 1912 and the larger portion of 1913 we have been paying them more for steel which has been shipped to England

By MR. SEVERANCE:

Q. How is it at the present time?

A. At the present time prices are alike.

Q. How do the prices that you have paid the Steel Corporation for steel for English consumption compare with the prices that you paid in England or Germany for steel for your English works?

MR. COLTON: That is objected to as irrelevant.

THE WITNESS: As far as I recall in the last two years especially we have been able to purchase steel cheaper here in the United States than abroad.

By Mr. Severance:

Q. From whom do you buy steel in Germany, what German producer?

A. From the Krupp Works.

Q. The Krupp plant at what place?

A. I understand they are at Dusseldorf.

By Mr. Dickinson:

Q. It is at Essen, isn't it?

A. Essen, yes; excuse me. I do not wish to be too positive about the location of the Krupp Works or of the relations of our company and the Krupp Works, since the German Company is an entirely independent organization in which we are only interested in the way of royalties.

Q. Do you purchase any steel from the Krupp Works for consumption in England?

A. Our English Company recently closed a large contract, as I understand from them, as I have been told.

Q. With the Krupp Works?

A. Yes, sir.

Q. Do you export to other countries, aside from England, Germany and Canada?

A. We export to almost every country on the globe.

Q. And where is that export business done from, from the United States or from some of these foreign plants?

A. With the exception of the countries wherein we manufacture directly it is done from the United States.

Q. You have spoken about the fact that the Carnegie Company has put in a lot of additional rolls, or peculiar rolls to roll your product. Can you tell about how many kinds of product of that kind you make and require special rolls for?

A. About three, necessitating, probably, thirty or forty different sections.

Q. You require thirty or forty peculiar types of rolls to make your material?

A. Yes, sir.

Mr. Colton: You said thirty or forty different sections?

The Witness: Yes, sir.

MR. COLTON: Is each section a different roll?

THE WITNESS: No; for steel sash, for steel partitions and steel doors it would require alone possibly twenty or thirty. Take a steel sash for example, a certain section would be required for the horizontal part, another one along the jambs, another along the sill, others around the ventilators, and so on.

By MR. SEVERANCE:

Q. In marketing your product do you bid on the job of furnishing your requirements say for a building when it is being put up, or how is it done?

A. We as a rule quote on the necessary steel reinforcements for a building complete.

Q. And does the steel reinforcement contract also include, as a rule, a contract for steel sash and lath and that sort of thing?

A. No; metal lath is used for partitions, suspended ceilings and the like.

Q. But when you quote on a building you quote simply for the reinforcement, do you?

A. Yes, sir.

Q. How do you sell your lath and sash; on competitive bids, or is that a matter of merchandising out of your warehouse?

A. Mostly on competitive bids. The sash I am referring to now. The lath is mostly sold out of our warehouses.

Q. Where do you have warehouses located?

A. Detroit, Youngstown, Portland.

Q. Portland, Maine, or Oregon?

A. Oregon. The principal one in Youngstown.

Q. Do you buy any wire?

A. Yes, sir.

Q. Wire goods?

A. Yes, sir.

Q. From whom do you make your wire purchases?

A. We do not buy any wire goods. I spoke before I understood the question. We purchase rather substantial quantities of wire.

Q. Where do you buy that?

A. From the American Steel & Wire Company and the Youngstown Sheet & Tube Company.

Q. Is that bought on a competitive basis?

A. Yes, sir.

Q. Do you secure quotations when you buy that?

A. Yes, sir.

Q. Do those quotations vary, or are they uniform?

A. They vary as a rule, slightly.

Q. By slightly what do you mean in dollars and cents per ton, or can't you figure it?

A. One or two dollars per ton.

Q. Outside of preparing these special rolls for your business in general, what is the character of the service that you have received from the Carnegie Steel Company, as to being good or otherwise?

A. Its service has been most acceptable. In fact, I attribute a large portion of the success of our company entirely to the service which they have given us. I consider them as one of the greatest supports of the general industry.

Q. In times of great activity, such as 1906 and 1907 and 1912, did they ever ask you for any premiums for prompt delivery?

A. No, sir.

CROSS EXAMINATION.

By Mr. Colton:

Q. Take the year 1913, and all the products that you purchased in the United States, whether for use in Canada or England or the United States, what portion did you get from the United States Steel Corporation?

Mr. Severance: That is, all classes, you mean?

Mr. Colton: Yes.

The Witness: You are speaking of all countries, too?

By Mr. Colton:

Q. Of all that you purchased in the United States for use in any part of the world.

MR. SEVERANCE: That includes sheets and everything else?

MR. COLTON: Yes.

THE WITNESS: I would say from 70 to 80 per cent.

By MR. COLTON:

Q. For 1912, what would your answer be for the same question?

A. Probably 80 to 85 per cent.

Q. For 1911?

A. About the same.

Q. For 1910?

A. About the same, I would say.

Q. For 1909?

A. I should say 80 to 85 per cent. for all previous years, except in the very early years, when we purchased, I believe, practically all of our requirements from them.

Q. From the United States Steel Corporation?

A. Yes, sir.

Q. What were those early years?

A. 1903, 1904 and 1905.

Q. During those years what did your contracts call for? Do you now recall what they called for in the way of purchases from the Carnegie Company?

A. As a rule we stipulated a certain tonnage, an approximate tonnage, as a rule. We would contract, say, for 20,000 tons, or 25,000 tons or so.

Q. And you found that to cover your requirements for the period named?

A. We approxixmated to the best of our ability, and as far as I recall, we always overran.

Q. That is, you called on them for more than your minimum tonnage?

A. Yes.

Q. And did you have a maximum tonnage specified in the contract that you could call for?

A. Yes; stated as a rule as 20,000 to 25,000 tons.

Q. And that condition continued up to—I may misstate the year—1905?

A. Even up to the present.

Q. That is still your present method of making the contracts?

A. Exactly.

Q. I want to get fixed in my mind the period that you confined your purchases to the Steel Corporation. That ended in 1905?

A. I won't be positive about that point. It was around 1905 or 1906.

Q. You do not know whether you continued to purchase entirely from the Corporation up through 1906 or not?

A. I think it was about 1906 when we started to purchase elsewhere.

Q. Take the year 1906: what different companies did you solicit for bids on bar steel in that year?

A. My recollection is that we solicited the Lackawanna Steel Company and Jones & Laughlin. I believe those were the only ones.

Q. Outside of the Steel Corporation?

A. Yes.

Q. For 1906?

A. Yes.

Q. Do you recall how much tonnage you placed in bars outside of the United States Steel Corporation in 1906?

A. No.

Q. Do you recall what prices were made you outside of the Steel Corporation in 1906?

A. No. I would have to consult my records.

Q. Do you have any recollection as to how those prices were related to one another for 1906, in bars?

A. I remember quite clearly the Jones & Laughlin and Lackawanna Companies making a quotation quite materially better than that at which we were able to purchase from the Steel Corporation, and, in fact, they had done so repeatedly, for three or four years, in the effort to take us away from the Steel Corporation. We, however, never joined them with any substantial tonnage.

Q. You never left the Steel Corporation?

A. We purchased some small amounts, possibly 500 or

1,000 tons, from the Lackawanna, and we continually purchased some from the Jones & Laughlin Company, but not to any large extent.

Q. You, substantially, continued to give your tonnage in bars to the Steel Corporation?

A. Exactly.

Q. Did you give it to any other company in the Steel Corporation than the Carnegie Company?

A. No.

Q. What was your tonnage in bars, say, in 1906?

A. In 1906, I would say about 25,000 to 30,000 tons.

Q. Did you ever give Jones & Laughlin a chance to bid on your entire tonnage?

A. No. I never asked them to.

Q. Does the contract of the Carnegie Company with you include bars, special shapes and structural shapes, all in one contract?

A. No.

Q. What do the contracts with the Carnegie Company combine beside bars, if anything?

A. Our main contract with the Carnegie Company is on bars and washboard sections. On sash sections and special shapes we do not draw up a formal contract, but we receive their prices at certain times of the year; they simply give us prices upon which we agree, and we enter no other contract at all. We merely place our requirements with them.

Q. You did buy, in addition to bars from the Carnegie Company, some other products that are included in your contract with bars, as I understand your answer?

A. No. As a rule the bar contract is a specific contract by itself.

Q. In 1906 do you know what the base price was on your bar contract for that year?

A. I would have to think.

Q. All right. Think.

A. I would not be positive. I mean about my statement to you, I could not be positive. My recollection is that it was around $29 to $30 per ton.

Q. What is it per hundred pounds?

A. That would be $1.45 to $1.50.

Q. Do you remember what it was for 1907?

A. For 1907 I believe it went to $1.60.

Q. Was it a sliding scale contract?

A. It went up to $1.60, up to the latter part of 1907, as I recollect, and then I believe it dropped slightly.

Q. Was it not $1.60 in the latter part of 1906?

A. That is quite possible.

Q. Then you do not mean to say that these are actual figures?

A. I would have to consult my records.

MR. SEVERANCE: He said he could not tell. He could not remember that.

MR. COLTON: That is just the reason why I was asking him.

By MR. COLTON:

Q. That was based on a sliding scale of contracts?

A. No, we have no sliding scale of contracts with them.

Q. Take the year 1908, what different companies did you solicit bids from?

A. 1908?

Q. Yes, 1908, on bars still?

A. I believe we purchased from the Lackawanna Steel Company in that year.

Q. What tonnage?

A. I would say about 1,500 tons.

Q. And what tonnage from the Carnegie?

A. These tonnages are of course approximate only unless you allow me to consult my records; I have them right with me.

Q. I am testing your memory now on that.

A. In 1908 our tonnage dropped quite materially on account of the panicky times. I do not believe we purchased over 25,000.

Q. 25,000 tons from the Carnegie?

A. Yes.

Q. What other company besides the Lackawanna and the Carnegie did you purchase from?

A. We purchased some from the Republic, as I recall.

Q. What tonnage from them?

A. Probably not over three or four thousand tons, or possibly 5,000.

Q. Now, do you recall what you paid the Carnegie in 1908?

A. My recollection is that in the early part of 1908 the price was about $1.40. I think it was in the spring, say around March and April, when the price of steel took a very material drop and went down as low as $1.05.

Q. Now, is not that for the year 1909 that you are now speaking about?

A. I think you are right about that, yes.

Q. You recall a material drop at some time, and you now, having your attention called to the year 1909, think it was 1909 when there was that material drop?

A. Yes. What I mean is this, that during these panicky times the Corporation maintained its price very rigidly, and after the times really began to be better, so far as we are concerned at least, it dropped its price very substantially.

Q. Do you recall the price you paid the Lackawanna Company in the year 1908, for bars?

A. No.

Q. Did you give them a chance to bid on your entire tonnage?

A. No.

Q. Did you receive competitive bids at all on bars for the year 1908?

A. We procured bids on bars, yes.

Q. But you did not submit to them the privilege of giving you the same quantity of tonnage that you submitted to the Carnegie, did you?

A. No, I would not have considered them sufficiently reliable to give them my entire tonnage, nor the main portion of my tonnage.

Q. And is the same thing true of the Republic, that you would not have considered them sufficiently reliable?

A. Yes; I do not wish to say in this case that I desire to

reflect on their credit standing. I mean I did not believe I could have counted upon their service. In fact the Republic would not have accepted it, and have told me so on frequent occasions.

MR. SEVERANCE: That is, the whole tonnage?

By MR. COLTON:

Q. The Republic did not make all the sizes of bars that you required?

A. For concrete reinforcement they did.

Q. You do not know whether the Republic had sufficient capacity to supply you with your full bar requirements?

A. I am quite sure they had not.

Q. Would your answer be the same for the Lackawanna Company for the year 1908?

A. My recollection is that the Lackawanna would not undertake to supply us with all of our tonnage or the major portion of it.

(The last two questions and answers were repeated by the stenographer.)

THE WITNESS: Please do not understand that I asked the Lackawanna to supply our entire tonnage at all. I did not believe they were capable of taking care of it, and at some time or other I based this belief by actual conversation with their officers.

By MR. COLTON:

Q. That was my question, as to whether they were capable of doing it.

MR. SEVERANCE: You mean, Mr. Colton, that they could not turn out sufficient tonnage? They would give him all their tonnage, or did you mean——

MR. COLTON: (Interposing) I am willing that the witness should take my question. He has answered it, and you can examine him on his answer.

MR. SEVERANCE: I thought perhaps you would be willing to save me the trouble by answering me what you meant.

MR. DICKINSON: Let the witness understand it. If he says

he does not understand it he has a right to have it explained.

MR. SEVERANCE: I will not take up the time. I thought you would be willing to straighten it out and save my doing it.

By MR. COLTON:

Q. Take the year 1909. Do you now recall how long the price stayed down at $1.05?

A. I would say three or four months.

Q. What was the base price with the Carnegie Company in 1910, Mr. Kahn, on bars?

A. I believe it jumped up to about $1.25 or $1.30.

Q. At what time did you let that contract at $1.25 or $1.30?

A. I don't recall that; I could consult my records and tell you positively.

Q. Do you recall that it was $1.30, now?

A. No; that is only my recollection.

Q. How much tonnage did you give to any other company in bars in 1910?

A. I would say somewhere between five and seven or eight thousand tons.

Q. Outside of the Carnegie Company?

A. Yes, sir.

Q. And how much to the Carnegie Company?

A. Won't you let me turn to my records and give it to you exactly?

Q. No; I want it just as a matter of your recollection now.

A. 25,000 to 30,000 tons.

Q. And with what different companies did you place that five to eight thousand tons?

A. The Republic principally.

Q. Any other company that you remember?

A. I think we purchased some from the Inland Steel Company. I would not be positive about any others.

Q. And what price did you pay the Republic?

A. I do not recollect.

Q. You do not recollect it was $1.30, more or less?

A. The prices of the Republic and the Carnegie Steel Company as a rule run very close together. Sometimes the

one is up a dollar and sometimes the other is up a dollar, or possibly even two dollars, but the variation is small.

Q. And you do not now recall whether there was a variation for 1910 of one dollar or two dollars, or whether they were at the same price?

A. No, I do not recall.

Q. Now, in the year 1911 didn't you observe another drop in the price of bars, a very marked drop?

A. No, I do not recall any marked drop. I would say the price of bars was either $1.30 or $1.40 in 1911.

Q. Didn't you get the benefit of the cut that came in about May, 1911, after Mr. Topping had given notice as to the Republic Company that it would not continue in the co-operative movement which brought about the general reduction in the price of bars to something like $1.20 or——

MR. SEVERANCE: I object to that as not based upon any evidence in the case and as incompetent and not cross examination.

THE WITNESS: Whenever there has been a reduction in the price of bars we have as a rule secured that reduction. The Corporation has, as a rule, met such competition as has been presented to us by substantial concerns.

By MR. COLTON:

Q. And you do not now recall any reduction in the price of bars in 1911?

A. I think I do.

Q. Wasn't there a reduction in 1911 of five or six dollars a ton in the price of bars, to the best of your recollection?

A. If there was that reduction we secured the benefit of it.

Q. Did I understand you to say that you now think you do recall that there was a reduction in 1911?

A. I remember only some newspaper articles which I read of the Republic making a material reduction in its price. Now, whether that was 1911 or 1910 I do not recall. I think I remember the incident that you speak of.

Q. And do you recall that there was a reduction at the

time that you remember reading these newspaper articles, whenever that may be?

A. Yes.

Q. Did that reduction extend to other products than bars, structural shapes?

A. Well, wire, I believe, went down.

Q. Yes.

A. Sheets do not seem to fluctuate with the bars.

Q. Do you recall as to structural shapes whether that went down or not?

A. No, I do not recall. Our purchases of structural shapes are very small.

Q. Are your bar purchases the largest purchases that you make outside of your special sections?

A. Yes, sir.

Q. Now, in 1912 what companies did you solicit bids of for bars?

A. In 1912 we limited ourselves practically entirely to the Steel Corporation and the Republic Iron & Steel Company.

Q. And what tonnage did you give to the Steel Corporation?

A. I would say around 40,000 tons.

Q. And to the Republic Iron & Steel Company?

A. I would say around 10,000 tons.

Q. And to all others, if there were any others?

A. Possibly 1,000 tons.

Q. Do you now recall the base price that the Carnegie Company charged you?

A. In 1912?

Q. Yes.

A. No.

Q. Were your contracts let to the Republic and to the Carnegie Company at the same time?

A. Practically at the same time. As a rule we contract either quarterly or semi-annually, and we generally do so about two months previous to the beginning of a quarter or the beginning of a half year. We generally consult both parties about the same time.

Q. You do not recall what the base price was from the Republic, do you?

A. I would say $1.40 or $1.50.

Q. And what would you say for the Carnegie?

A. About the same.

Q. In 1913 what tonnage of bars have you purchased from the Carnegie Company?

A. In 1913 I believe we purchased about 45,000 tons from the Carnegie Company.

Q. And what is the base price?

A. $1.40, the first three quarters—no, about the first six months of the year I would say. Then it dropped to $1.30, and since then there has been a further reduction to $1.20.

Q. When did the reduction to $1.20 occur?

A. Within the last two weeks I would say.

Q. And that was a reduction given to you within the last two weeks to $1.20?

A. Yes, sir.

Q. And on what quantity of steel was that reduction to $1.20 given to you?

A. No specific quantity mentioned. We had been simply informed that that would be our price for the time being.

Q. Did they just notify you that they had reduced to $1.20, or did you take it up with them?

A. I believe they notified us without our taking it up with them.

Q. Did they notify you of the reduction to $1.30 in the same way?

A. Yes, sir.

Q. Now, take the tonnage that you bought from the Republic; when did you place that contract in 1913?

A. I believe we placed one at the early part of the year, and one just prior to the second half of the year.

Q. Take the one that you placed in the early part of the year; what was the base price?

A. I think it was $1.40.

Q. And take the one that you placed next; what was the price?

A. I believe it was $1.40, but subsequently reduced to $1.30.

Q. Did the Republic also just notify you of a reduction to $1.30?

A. Yes, sir.

Q. And can you give approximately the time that you received notice from the Carnegie Company and the Republic Company as to the reduction to $1.30?

A. I believe the $1.30 reduction came—I said before early in the second half, but I think it was about in October, September or October.

Q. From both of the companies?

A. Yes. We received notice of a further reduction from the Republic yesterday.

Q. To $1.20?

A. Yes, sir.

Q. Now, what was your next product in point of view of tonnage?

A. Sheet steel.

Q. That is leaving out special sections?

A. No, sheet steel would be greater than special sections.

Q. What is the first year that you began to have anything to do with the purchase of steel products?

A. 1903.

Q. From what different companies did you solicit bids on sheets then?

A. You said "steel products" just now.

Q. I will make it sheets; when did you begin the purchase of sheets?

A. My answer, then, should have been, instead of 1903—it should have been 1906.

Q. From what different companies did you solicit bids in 1906?

A. I think the first company we purchased sheets from was the Youngstown Iron & Steel Company.

Q. What tonnage did you place in that year all told?

A. Possibly 1,000 tons.

Q. Your purchases were rather insignificant that year compared to your general business?

A. Yes, sir.

Q. In 1907 what tonnage did you place in sheets?

A. I would say about 1,500 to 2,000 tons.

Q. Still comparatively insignificant?

A. Yes, sir.

Q. What year did it become of any large amount as compared with the rest of your business?

A. We started in 1908.

Q. In 1908 from what companies did you solicit bids?

A. From the American Sheet & Tin Plate Company and the Youngstown Iron & Steel Company.

Q. And what was your tonnage in 1908?

A. I would say that to the best of my recollection it probably jumped up to 3,000 or 4,000 tons that year.

Q. And do you now recall the price made you by the different companies for sheets in 1908?

A. No.

Q. Or the relation they bore to one another?

A. They have always varied, all the way from one dollar to three dollars per ton.

Q. In sheets?

A. Yes, sir.

Q. As between what companies?

A. As between the American Sheet & Tin Plate Company, the Youngstown Iron & Steel Company, the Youngstown Sheet & Tube and the Brier Hill, or the Thomas Steel Company.

(Whereupon an adjournment was taken until to-morrow, Wednesday, December 10, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-SEVENTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Wednesday, December 10, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the Defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

JULIUS KAHN,

the witness under examination at the taking of adjournment, resumed the stand.

CROSS EXAMINATION (Continued.)

By MR. COLTON:

Q. Mr. Kahn, taking up sheets: from what different companies did you solicit bids on sheets in 1906?

A. Would you not rather make that in general,—from what companies we solicited bids, not limiting it to a specific year?

Q. No; I would rather make it for 1906.

A. Then I must simply tell you that I do not know, if you make it specially for a specific year.

Q. Is that the year that you began to do business?

A. I think that was the year, yes.

Q. You do not know from what companies you solicited bids during that year at all?

A. I could not give you a positively accurate reply. I will tell you about, if that will satisfy you.

Q. Have you any recollection as to what companies you did solicit for that year?

A. Yes; I will tell you about.

Q. No; I do not want to know about; I want to know what companies you recollect that you solicited bids from for that year, if you do recollect any companies.

MR. SEVERANCE: If he says he will tell you about the ones, he is doing the best he can.

THE WITNESS: You will have to let my answer stand; if that is not satisfactory to you, I will not reply.

By MR. COLTON:

Q. Take the year 1907.

A. My answer applies the same way.

Q. 1908?

A. I cannot tell you positively, but I am very glad to tell you approximately if you desire to have it that way.

Q. 1909?

A. The same answer.

Q. 1910?

A. The same answer.

Q. 1911?

A. The American Sheet & Tin Plate Company, the Youngstown Iron & Steel Company, and, I believe we solicited the La Belle Iron & Steel Company.

Q. Is that all you remember?

A. That is all I remember just now.

Q. How many times did you solicit bids from the American Sheet & Tin Plate Company approximately, during the year 1911?

A. As a rule we asked for quotations about four times a year—quarterly.

Q. At what time in 1911 did you first ask for bids, approximately?

A. We usually ask just previous to the beginning of the quarter; just previous to the beginning of each quarter.

Q. That would be just previous to January 1, 1911?

A. Yes.

Q. Did you at that time solicit all three of these companies that you have named?

A. We generally solicit all the companies at the same time.

Q. I ask you now as to whether you did solicit these three companies at the same time?

A. To the best of my recollection we did.

Q. Do you recall the bids of those three companies in 1911?

A. No, sir.

MR. DICKINSON: The bids were submitted in 1910.

MR. COLTON: But it is for 1911.

THE WITNESS: Make it either one. I do not remember.

By MR. COLTON:

Q. What was the first year for which you do remember the bids of the companies from which you solicited bids for any year?

A. I would not state positively for any year or, in fact, for any time except the current months.

Q. In the year 1912 what different companies did you solicit bids from?

A. About the same companies as mentioned before.

Q. Those same three companies you named?

A. About the same, so far as I can remember. I believe, however, in 1912 we first started buying from the Brier Hill.

Q. Then, in addition to the American Sheet & Tin Plate Company and the Youngstown Iron & Steel Company and the La Belle Company, you solicited bids from the Brier Hill people in 1912? Is that correct?

A. And quite possibly the Youngstown Sheet & Tube Company at that time also.

Q. How did you place your tonnage in 1912?

A. I believe we gave about 50 per cent. to the American Sheet & Tin Plate Company and divided the remaining 50 per cent. between the Youngstown Iron & Steel Company, the Youngstown Sheet & Tube Company and the Brier Hill Company.

Q. How much did you give the Youngstown Sheet & Tube?

A. I would say about 12½ to 15 per cent.

Q. And the Youngstown Iron & Steel Company?

A. I would say we gave them about 25 per cent. of the total.

Q. And the Brier Hill?

A. The Brier Hill the remainder; that would be about 12½ per cent.

Q. At what price did you place your sheets with the American Sheet & Tin Plate Company for the first quarter?

A. Of this year?

Q. No, of 1912?

A. I don't remember, but I have my records with me and can tell you exactly.

Q. You have not the original bids, have you?

A. I have the original price, yes, sir.

Q. The original price of the American Sheet & Tin Plate Company?

A. Yes, sir; I have it with me.

Q. Is that the contract price or the original quotation?

A. The contract price.

Q. You may give your contract price.

A. I find, now, that I have not got it in my pocket. It is in the building here, two floors below, if you want me to get it.

Q. Never mind, if you have not got it with you here.

And you do not recollect it, do you?

A. No.

Q. Do you recollect what it was for the Youngstown Tube Company?

A. No.

Q. Do you know what the difference was between the Youngstown Tube and the American Sheet & Tin Plate now?

A. I think it was about $2 a ton. I looked it up yesterday.

Q. Do you recollect that?

A. Positively, no.

Q. Do you know the price that you let it at to any of the others?

A. No, not positively.

Q. Now, was there more than one quotation given you from these different companies?

A. No; each company as a rule would give the one quotation.

Q. And you would let your contract on the first quotation that they gave you?

A. No, as a rule we would try to do better with them. We would bargain with them back and forth, and sometimes we would get a reduction of one or two dollars a ton, and sometimes their quotations would remain firm.

Q. Take 1912: do you recall the original quotation of the American Sheet & Tin Plate Company?

A. No.

Q. Do you recall what the original quotation was of any one of these companies?

A. No.

Q. Do you recall what difference there was, if any, between the original quotations of any one of those different companies, and if so, state which.

A. My recollection is they differed about three dollars; that is the difference between the highest and the lowest.

Q. Which was the highest for 1912?

A. I think it was the American Sheet & Tin Plate Company.

Q. And you placed 50 per cent. of your business with them?

A. Yes.

Q. Was it the same style sheets?

A. Yes.

Q. No better?

A. No.

Q. Which was the lowest?

A. I think it was the Youngstown Iron & Steel Company.

Q. You think it was three dollars lower for 1912?

A. Yes; I say the maximum difference, as I recall it, between the various parties, was about three dollars.

Q. What was it for the Youngstown Sheet & Tube Company?

A. Somewhere between one and three dollars; they were not alike.

Q. In 1912, do you now recall that none of those four quotations were alike?

A. I will give you those in five minutes exactly, if you will let me go downstairs and get it for you.

Q. You have no recollection about it now?

A. Those records are just two floors below here, and I can get them in five minutes.

MR. SEVERANCE: Mr. Colton prefers your recollection.

MR. DICKINSON: No, he wants to see if he has any recollection; that is a different proposition.

MR. SEVERANCE: I did not mean to say it by way of criticism; I am just saying it to Mr. Kahn.

MR. COLTON: I thought if he had it in his pocket he could give it to us; if he has not, we will go on.

By MR. COLTON:

Q. Take 1913: from what different companies have you solicited bids on sheets?

A. The American Sheet & Tin Plate Company; the Youngstown Iron & Steel Company; the Brier Hill, and the Youngstown Sheet & Tube Company.

Q. Did you get quotations from all those companies on the same purchase?

A. Yes.

Q. What percentage did you give to the American Sheet & Tin Plate Company for this year?

A. I believe this year it runs about 33 to 40 per cent., to the American Sheet & Tin Plate Company.

Q. And what to the Youngstown Sheet & Tube Company?

A. The remaining 60 per cent. would be divided about 30 per cent. going to the Youngstown Iron & Steel Company; 15 to the Youngstown Sheet & Tube Company, and 15 to the Brier Hill.

Q. Was the American Sheet & Tin Plate Company highest at this time?

A. Yes; they are highest right now.

Q. Were they the highest on the original quotation this year?

A. I believe they were one dollar higher than the others.

Q. Were the other three the same?

A. No. I think the Youngstown Iron & Steel Company

was the lowest. My recollection is that the Youngstown Sheet & Tube Company is between the Youngstown Iron & Steel and the American Sheet & Tin Plate Company.

Q. How much was the lowest one below the American Sheet & Tin Plate Company?

A. If you make this the present moment, the difference between the Youngstown Iron & Steel Company and——

Q. I am talking about your original quotations from those companies, if you remember.

A. There were three original quotations; four, as a matter of fact. Which original ones?

Q. The first original quotation from each of these different companies, and the variances between the prices, if any?

A. I believe there was only one dollar variation at the beginning of the year, and the Youngstown Iron & Steel Company and the Youngstown Sheet & Tube Company I think were $44 a ton, and the American Sheet & Tin Plate Company were $45 per ton on 28-gauge black sheet steel.

Q. How many of them were $44?

A. The Youngstown Iron & Steel Company, the Youngstown Sheet & Tube. That is to the best of my recollection.

Q. Was there any other bidding?

A. No; I only had those four parties bidding.

Q. You have only given three; you have given the American Sheet & Tin Plate Company, and you have given two others. There was a fourth one, and I want to know what the fourth one bid?

A. The Brier Hill I think was either the same as the Youngstown Iron & Steel, or between the Youngstown Iron & Steel and the American Sheet & Tin Plate Company.

Q. The American Sheet & Tin Plate Company's sheets were just the same character of black sheets as the others, were they?

A. Yes.

Q. And you gave the largest percentage to them?

A. Yes.

Q. Although their price was the highest?

A. Yes.

Q. What percentage did you give the American Sheet & Tin Plate Company in 1911 in sheets?

A. It was either 40 or 50 per cent. of the total.

Q. In 1910?

A. I would say about the same ratio.

Q. And in 1909?

A. I don't recall.

Q. 1908?

A. I don't recall.

Q. And 1907?

A. In those early years we purchased the larger portion of our sheets from the Youngstown Iron & Steel Company, but the definite percentage I would make no effort to tell you.

Q. From 1906 through to 1908 your purchases in sheets were light, were they not?

A. Yes.

Q. Taking structural shapes, from what different companies have you purchased structural shapes, since you began to buy structural shapes?

A. We purchased only small quantities of structural shapes, and generally in the open market.

Q. What tonnage, all told, have you purchased, of structural shapes?

A. We purchased probably about 500 tons a year.

Q. Only 500 tons?

A. A very small amount.

Q. It is not a matter with which you concern yourself very much one way or the other?

A. No.

Q. Did you ever offer any of the so-called independent manufacturers to turn over the rolling of all of your special sections?

A. Yes, sir; quite often.

Q. To which one did you first offer the proposition of turning over the rolling of all your special sections?

A. At some time or other I have consulted Jones & Laughlin.

Q. Will you give the date as nearly as you can?

A. Yes; I think I approached Jones & Laughlin about in 1908.

Q. Prior to that had you offered it to anyone?

A. Oh, quite surely I did.

Q. When?

A. I do not know when I did it.

Q. Who was it?

A. At some time or other we have offered them to Lackawanna, Jones & Laughlin, Cambria, Republic. We solicited at least thirty European manufacturers.

Q. Now, coming back to the first time that you have any recollection now definitely of any company that you did offer it to, was to Jones & Laughlin; is that correct?

A. Yes.

Q. 1908?

A. No, I think that goes back to the beginning, even of our concern. That would be 1903 or 1904.

Q. State the first year that you recollect having offered to turn over the rolling of your tonnage in these special sections to any given company, naming the company?

A. We have been in constant touch ever since we have begun business, and have solicited at some time or other every company——

MR. COLTON: Will you repeat the question to the witness.

(The stenographer thereupon repeated the question to the witness, as follows:)

"Q. State the first year that you recollect having offered to turn over the rolling of your tonnage in these special sections to any given company, naming the company."

THE WITNESS: I think we consulted Jones & Laughlin in 1904.

By MR. COLTON:

Q. What time of the year?

A. I do not recall.

Q. Who did you consult with in Jones & Laughlin?

A. The general sales manager. Let me see if I can tell you his name. I do not remember his name.

Q. Where did the meeting occur?

A. Pittsburgh.

Q. Where?

A. In their office.

Q. The office of whom?

A. Jones & Laughlin.

Q. That was in 1904?

A. Yes.

Q. What proposition did you put up to the general sales manager?

A. Oh, I do not recall the proposition I put up to him. I consulted him in all probability——

Q. I do not want probabilities. I want your recollection, if you have any.

A. I have not got any, definitely.

Q. What is the next year that you took up the question of placing your tonnage with a given manufacturer that you now can remember, and the manufacturer with whom you took it up?

A. My answer to you before was that I have been in constant consultation with various manufacturers along the line of having them turn up our rolls, securing prices from them, from 1903 to I would say 1911 or 1912, at various periods or times during those years——

Mr. Colton: Read the question.

The Witness: Wait until I get through. I simply can not and will not reply to you giving any definite dates nor stating to you definitely what transpired between us. I transact a large quantity of business. I do not make it a point to keep memoranda or daily diary of what is going on. I shall be very pleased to consult my correspondence and give you the benefit of anything I have, but if you persist in asking me for definite statements as to dates and conversations which transpired, I will simply have to tell you I do not know.

By Mr. Colton:

Q. What was the last concern that you consulted about taking your tonnage in these special sections, giving as near as you can the year and the time?

A. I consulted some thirty concerns in Europe, asking them to roll our various sections. I would say the latest four months ago.

Q. Take in this country, the same question?

A. About a year ago I asked the Republic whether they could turn up for us the rolls for some of our various sections.

Q. Some of your sections?

A. I believe I submitted to them blue prints of all that we had.

Q. To what person in the Republic?

A. To Mr. Johnson, sales manager.

Q. Could you give his initials?

A. No.

Q. What position does he hold?

A. Sales manager.

MR. SEVERANCE: You won't have any trouble identifying him.

By MR. COLTON:

Q. What tonnage did you submit to him?

A. We did not submit any definite amount of tonnage. We were very anxious to have more than one source for our supplies. If they had undertaken to roll these sections the probability is that we would have divided our tonnage so as to make it well worth their while.

Q. You did not offer to give them all your tonnage?

A. No, sir.

Q. And you did not offer to give them any definite amount of your tonnage?

A. It did not come to the matter of offering definite tonnage because I should have been very glad indeed to have offered them any tonnage which they would have considered worth their while to turn up these rolls.

Q. Have you ever visited the structural shop of the Republic Company?

A. The rolling mill, do you mean?

Q. I mean the rolling mill for rolling special sections.

A. Quite often.

Q. When were you last there?

A. I believe I was there about two months ago.

Q. Do you know what sizes of structural shapes the Republic rolls?

A. In a general way I am quite well informed.

Q. How long have they been rolling structural shapes, if you know?

A. I know at least for the full length of time that we have been in business, which would be ten years.

Q. What sizes of structural shapes have you ever secured from the Republic?

A. We are now buying from the Republic shapes which vary in weight from one-quarter pound to ten pounds per linear foot.

Q. When did you first buy structural shapes from the Republic?

A. In order that we do not disagree as to what we call structural shapes, I am including bars under that term.

Q. I am speaking now of the structural shapes as distinguished from bars.

A. Of course that is possibly a refinement. I take it then that you mean beams, channels, angles and the like?

Q. Yes.

A. We buy very little of that material. As I said before, possibly 500 tons altogether per year.

Q. Now, you did not mean to say that the Republic was rolling angles, beams and channels, did you?

A. I believe they are. I do not know positively.

Q. You do not know?

A. I do not positively know.

Q. What was the company next preceding, and the time that you took up the question of having your special sections rolled, in this country, I mean?

A. About two years previous to that time we consulted the Sharon Hoop & Steel Company at Sharon, Pennsylvania.

Q. Are these special sections most like bars?

A. Yes, sir.

Q. They come nearer to bars than they do to structural shapes?

A. Yes, sir.

Q. Have you ever, in purchasing bars from the Corporation, bought them cheaper by reason of the fact that they were to be shipped abroad?

A. Oh, Yes.

Q. Has the Corporation ever required you to pay more for bars because they were to be shipped abroad?

A. Yes.

Q. When?

A. The early part of this year, and the latter part of last year. In fact, I would say beginning from August of last year up to about August of this year, the purchases which we made from them for shipment abroad cost us more than those for home consumption.

Q. You do not mean to say that the Corporation charged you more because they were to be shipped abroad, but simply that you paid more for those that you did ship abroad than you did for those used in the domestic market?

A. No; we paid more because they were to be shipped abroad.

Q. Do you know of any time previous to 1912 in which the Corporation charged you more for bars by reason of the fact that they were to be shipped abroad?

A. I do not know any specific date, but the two prices at no time that I can recall were dependent upon each other. They would vary one way or the other, sometimes one being high, and sometimes the other.

Q. Now, I want you to get my question: You have, by reason of the fact that you were shipping bars abroad, and because you brought that to the attention of the Corporation, secured a lower price, have you not?

A. No.

MR. SEVERANCE: He has said that he has at times.

By MR. COLTON:

Q. You have never secured a lower price by reason of the fact that you were going to ship the bars abroad?

A. The prices we secured for shipment abroad have al-

ways been given to us based upon what the destination local competition prices ruled. To the best of my recollection they have never been influenced by any purchase for home consumption. Does that answer your question?

Q. No. My question is this——

MR. SEVERANCE: He has answered your question twice.

By MR. COLTON:

Q. My question is, whether you have ever paid the Corporation less for your bars because you were shipping them abroad, whether to meet competition or whatever the reason may have been.

A. Yes.

Q. Now, has the Corporation ever required you to pay more, except during the last two years, for bars because you were shipping them abroad? If so, when?

A. My recollection is that they did charge us more, but I could not tell you when.

Q. Do you mean to say that you ever paid the Corporation more for bars because you were shipping them abroad than you did for use in this country, prior to 1912?

A. My recollection would be that we did.

Q. Why did you not buy them and just simply ship them abroad, and say nothing about the fact that you were shipping them abroad?

A. Because we would not be keeping good faith with the Corporation.

Q. Then they required you to show where your shipments were to go in respect to bars?

A. They did not require us to do so. They took our word for it.

Q. You were in the habit of giving your word as to where you were shipping your bars, were you?

A. Yes.

Q. Is that a part of your transaction with them?

A. It is.

Q. Did you ever give them an affidavit?

A. No; I do not think I have ever been required to do so.

Q. You do not now recall any occasion, prior to 1912, definitely, and sufficiently definitely to state it, in which you did, by reason of the fact that you were shipping abroad, pay a higher price than you would have paid if you had been using those bars in this country?

A. I do not recall definitely.

(By request of the witness the question was repeated by the stenographer.)

THE WITNESS: I would only say that, as I have already stated, the two prices have never necessarily run together; sometimes one was up and sometimes the other was up.

By MR. DICKINSON:

Q. I would like to have you hear the question again.

MR. SEVERANCE: I think your first answer was correct.

(The stenographer again repeated the question referred to, as follows:)

"Q. You do not now recall any occasion, prior to 1912, definitely, and sufficiently definitely to state it, in which you did, by reason of the fact that you were shipping abroad, pay a higher price than you would have paid if you had been using those bars in this country?

"A. I do not recall definitely."

THE WITNESS: I make the same answer: I do not recall definitely.

By MR. COLTON:

Q. During what period of time have you purchased bars in England for use there?

A. When we first began business in England we purchased all of our requirements for England from the United States. Since that time my recollection is that we have purchased at various times. We are shipping washboard sections, all that are used, entirely from the United States. The English company is managed by a separate directorate, and I am only

kept informed in a general way by occasional visits from the officers of their company to the United States.

Q. The question I wish you would answer now is: What purchases of bars in England, for use in England, have you, yourself, made?

A. Personally I have made no purchases.

Q. Would your answer be the same for Germany?

A. Yes.

Q. That means that you have made no purchases personally in Germany?

A. No; you did not ask me that. You asked "for Germany."

Q. Well, I said the same question for Germany. I mean whether you have made any purchases from German mills for bars at any time.

A. That is not what I understood you to say.

Q. All right, then. Just answer the question.

MR. SEVERANCE: Answer the question as he puts it now.

THE WITNESS: Is that for American consumption?

By MR. COLTON:

Q. No, for consumption in Germany.

A. Our German company has, but our American company has not. The German company purchases continually, but not the American.

Q. Have you yourself purchased?

A. No.

MR. SEVERANCE: He wants to know what you have done personally, Mr. Kahn; not what your companies have done.

THE WITNESS: No.

By MR. COLTON:

Q. Have you made any purchases from English mills, personally?

A. No.

Q. Have you made any purchases from the Belgium mills, personally?

A. No.

MR. COLTON: I object to the witness's testimony in respect to prices paid in England, Germany and Belgium on the ground that it is hearsay.

By MR. COLTON:

Q. What products do you export?

A. All of our products.

Q. Do you export reinforced concrete?

A. Yes.

Q. In what tonnage?

A. You mean reinforcement for concrete?

Q. Yes; reinforcement for concrete.

A. About twenty per cent. of our total.

Q. What would that tonnage be?

A. That would be about eight to ten thousand tons of steel bars; of sheets it would be about 2,000 tons—two to three thousand tons; of steel sash it would be 1,500 to 2,000 tons.

Q. Are those the different steel products that you ship abroad?

A. Outside of that we make a number of minor products of which the tonnage, however, would not run into large figures.

Q. Your foreign business in these steel products is a growing business?

A. Very much so.

Q. Wire, when did you first begin to buy wire?

A. About 1908.

Q. And from what different companies did you buy?

A. The American Iron & Steel Company and the Youngstown Sheet & Tube.

Q. How much tonnage did you buy in 1908?

A. I do not recall the definite tonnage; it does not go into such large figures. Possibly the amount might have been 1,000 or 1,500 tons altogether.

Q. What proportion of that do you get from the American Iron & Steel Company?

A. We have at all times divided that equally between the American Iron & Steel Company and the Youngstown Sheet & Tube Company.

Q. What did you pay the American Iron & Steel Company, base price?

A. I don't recall.

Q. What was the Youngstown base price?

A. I don't recall.

Q. Did you get bids from any other companies on wire in 1908 than the two you have named?

A. I don't recall that we did.

Q. Do you recall the original quotations of the American Iron & Steel Company and the Youngstown Sheet & Tube Company?

A. No, I don't recall.

Q. Do you recall whether they were alike or different, the different bids?

A. I don't recall.

Q. Would your answer be the same for 1909?

A. Yes.

Q. 1910?

A. Yes.

Q. 1911?

A. Yes.

Q. 1912?

A. Yes.

Q. 1913?

A. I believe right now we are paying $1.50 for wire to the American Iron & Steel Company, and it is about the same for the Youngstown Sheet & Tube Company, but I do not recall definitely.

MR. COLTON: That is all.

MR. SEVERANCE: Just one question.

By MR. SEVERANCE:

Q. Mr. Kahn, you keep in touch with your business in England through reports made to you frequently by your managers there?

MR. COLTON: I object to that question as leading.

THE WITNESS: I receive letters from them and visits from them quite periodically.

CHARLEMAGNE TOWER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Where do you reside?

A. Philadelphia.

Q. Were you at any time interested in the properties or the stock of the Minnesota Iron Company or the Duluth & Iron Range Railroad?

A. My father was the owner of that property.

Q. How many years ago did your father become interested there?

A. I think my father first became interested in the property in Minnesota in the year 1878 or 1879. I think it was brought to his attention at that time.

Q. By whom?

A. By a gentleman called Mr. George C. Stone, of St. Paul, Minnesota. Mr. Stone called the attention of my father to the fact that there were, or it was reported that there were, large iron deposits in the State of Minnesota, to the north of Lake Superior. My father, having had considerable mining interests in Pennsylvania in the coal district, decided that he would make an investigation of this property which Mr. Stone recommended him to purchase.

Q. Without going into the details, did your father finally acquire this mining property?

A. Yes; he sent an expedition up there under Professor Chester, of Hamilton College.

Mr. Dickinson: Pardon me; the question was "without going into the details"; of course we have no objections to details, but counsel is trying to limit it and I wish you would try to limit it so we will not have to be here a long time.

The Witness: I merely wanted to call attention to the fact that my father had become interested in that way, and that he did acquire the land from the Government and decided to make the development by forming the Minnesota Iron Company.

By Mr. Severance:

Q. What was the first mine that was opened?

A. The first mine was called the Breitung Mine. I think it was in township 62-14, if I am not mistaken: St. Louis County.

Q. When did you first have any personal connection with this matter, if at all?

A. When the Minnesota Iron Company was formed I went out to Duluth to live, in the year 1883, the spring of 1883.

Q. How long did you live there?

A. I stayed there until the early part of 1888.

Q. Now, at the time you went out there was there any railroad connection between Lake Superior and this mining property that your father had become interested in?

A. No; none whatever. It was a thick forest.

Q. What did you do toward getting railroad connection between the mines and the lake?

A. When we decided to develop the mines which were situated on Lake Vermilion, about 70 miles north of Lake Superior, we endeavored to get railroad communication, but it was impossible to interest any of the then existing railroads in our enterprise, which people had not much confidence in at the time, and so my father decided that he would build the railroad himself in order to get out.

Q. What railroads then existing did you approach in an endeavor to secure a railroad?

Mr. Dickinson: That is objected to as irrelevant.

The Witness: Only tentatively, we inquired whether either the Northern Pacific Railroad or the St. Paul & Duluth Road would be willing to build a line. We never had any formal connection with them. That was merely tentative, and we found it was impossible to get any railroad connection. We decided, therefore, to build the road ourselves.

By Mr. Severance:

Q. What was the purpose of building the Duluth & Iron Range Railroad, Mr. Tower?

A. The purpose of it was to transport the ore of the Minnesota Iron Company to the docks which we constructed at Two Harbors.

Q. Were you living in Duluth at the time of the construction of the road?

A. Yes; I was there, and was president of the road there. The Minnesota Iron Company acquired an old charter which was in existence, called the Duluth & Iron Range Railroad, which never had been built, and under that—we gave it that name; I am not quite sure what the original name was. Under that we built the railroad from the mines to the water at Two Harbors on Lake Superior.

Q. In reference to the time you were building the railroad, when did you build docks, if at all?

A. We built the docks at the same time in order that we might ship ore as soon as we were ready to mine it, because we had the ore properties and we had no way of getting out.

Q. Was there any other purpose in view of the gentlemen who built the road—your father and yourself—in constructing the same, other than having an outlet for the mines?

A. No, sir; none whatever.

Q. How long did you continue to operate that railroad yourself?

A. Until the property was sold; we continued the line afterwards from Two Harbors along the lake shore to Duluth, in order to make a connection then with the St. Paul & Duluth road at Duluth. I remained there, as I say, from 1883 to the early part of 1888.

Q. Now, who owned the stock of the Duluth & Iron Range Railroad?

Mr. Dickinson: At that time, you mean?

Mr. Severance: Yes.

Mr. Dickinson: It is objected to as irrelevant.

The Witness: The Iron Range Railroad; the whole property was owned by the Minnesota Iron Company.

By Mr. Severance:

Q. The Minnesota Iron Company's stock was controlled by your father, wasn't it?

A. Yes, sir. The railroad really was a part of the Iron

Company. We owned and constructed the railroad, and advanced the money for paying for it.

Q. The Minnesota Iron Company owned the stock of the railroad?

A. Owned the railroad entirely.

Q. Owned the railroad stock?

A. Yes, sir.

Q. It was a separate corporation, but the stock was all owned by the Minnesota Iron Company, which was in turn owned by your father?

A. Yes, sir.

Q. During that time was there any other person interested with your father in the mining company or the railroad?

A. Yes; Mr. Edward Breitung, a member of Congress at one time from the Marquette district; he had some ownership, but I think he sold afterwards to my father. I think Mr. George Stone had some stock interest in the Minnesota Iron Company; not a very large interest.

Q. Did Mr. Ely have some?

A. I think Messrs. George H. and Samuel P. Ely, of Cleveland were our sales agents for the ore at Cleveland, and I think they may have had a small stock interest, but my father owned the property and controlled it entirely.

Q. Now, to whom, if any one, did your father sell out the stock of the Minnesota Iron Company?

A. To a syndicate of gentlemen formed, I think, originally through Mr. H. H. Porter, in Chicago.

Q. About when was that?

A. That was either in the latter part of 1887 or the beginning of 1888, I think. These matters are thirty years old. I have not refreshed my mind.

MR. DICKINSON: Will you allow him to go on and state if there were any others?

THE WITNESS: Mr. Heber Bishop; Mr. Benjamin Brewster; Mr. Marshall Field, and Governor Flower, I think. There may have been some other gentlemen.

MR. COLTON: Samuel Mather, do you recall?

THE WITNESS: Mr. Mather may have had some interest;

I am not sure of that. I remember only these particular gentlemen, because after we sold the property to them I left Minnesota and came back to Philadelphia, and I had no further direct connection with it.

By Mr. Severance:

Q. During the time you were president of the Iron Range Road what was its chief traffic?

A. The iron ore of the Minnesota Iron Company; in fact, that was the only traffic there was.

Mr. Severance: That is all.

Mr. Dickinson: No questions.

HOWARD H. PRIESTLEY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Where do you reside?

A. Princeton, Illinois.

Q. What is your business?

A. Hardware.

Q. How long have you been in the hardware business?

A. Started in 1879.

Q. What classes of hardware do you deal in?

A. Shelf hardware, stoves, and tinware.

Q. Do you handle any fence?

A. Yes, sir.

Q. Wire goods?

A. Yes, sir.

Q. And any sheets?

A. Yes, sir.

Q. Tin plate?

A. Yes, sir.

Q. Poultry netting?

A. Yes, sir.

Q. What do you mean generally by "shelf hardware"? Bolts, nuts, screws—that sort of thing?

A. Yes, sir.

Q. Do you handle any cutlery and axes?

A. Yes, sir.

Q. Hammers, hatchets?

A. Yes, sir; all mechanics' tools.

Q. Stoves?

A. Yes, sir.

Q. Do you handle nails?

A. Yes, sir.

Q. How do you buy your nails; from jobbers or from the mills?

A. From the mills, very largely.

Q. In carload lots ordinarily?

A. Yes, sir.

Q. From whom in the last twelve years have you purchased your requirements of nails as a rule?

A. George B. Lessig & Company; Kelly Nail & Iron Company; Kokomo Steel & Wire Company; Grand Crossing Tack Company; American Steel & Wire Company; Pittsburgh Steel Company. I believe that about covers it.

Q. What portion of the time have you bought from the American Steel & Wire Company?

A. A limited quantity the last two years.

Q. Previous to that did you buy any from them in the way of nails?

A. No nails.

Q. What has been the reason for your placing your orders where you have placed them?

A. On account of price.

Q. You say you have bought a limited quantity from the American Steel & Wire Company the last two years; was that by reason of the price also, the same as in the other cases?

A. I think I got the last two years always a price that was satisfactory, taking into consideration the quality.

Q. During these years that you purchased from competitors of the American Steel & Wire Company, did you get quotations from that company as well as the others?

A. Usually.

Q. Were those quotations varying or uniform as between the different mills?

A. I usually would receive quotations ranging from five to ten cents per keg.

Q. You mean variations of that much?

A. Yes; variations of from five to ten cents a keg.

Q. Did you buy any woven wire fencing during the last twelve years?

A. Yes.

Q. From whom have you bought your fencing?

A. From the American Steel & Wire Company, the Gilbert & Bennett Manufacturing Company, the Pittsburgh Steel Company, the Keystone Fence Company, the Peerless Manufacturing Company; I think that is the title of it.

Q. Did you say whether you bought any fence from the American Steel & Wire Company? Did you mention them?

A. Yes.

Q. What kind of fence, what brand of fence did you buy from them?

A. The American field fence.

Q. Were these other fences that you bought from other people field fence also?

A. Some of them were.

Q. What were the others?

A. The others were poultry.

Q. Did you ever buy any poultry fence from the American Steel & Wire Company?

A. Yes, sir.

Q. How are the quotations made by the different manufacturers on field fence and poultry fence as to being uniform or varying from each other?

A. They varied.

Q. Are these different classes of fence handled by the dealers in your neighborhood?

A. Yes, sir.

Q. Are there any other towns near Princeton that retail in the same territory that you do?

A. Yes; I think there are about probably eight or ten.

Q. And can you tell, in general, what make of fence is sold in these various towns in this common territory?

A. Yes; I can tell what the competition is.

MR. DICKINSON: The last fence you were asking about was poultry. Are you confining this to poultry fence?

By MR. SEVERANCE:

Q. We will take up the matter of woven wire fencing now. Just answer the question as applied to woven wire fencing.

(By request the stenographer repeated the question as follows:)

"Q. And can you tell, in general, what make of fence is sold in these various towns in this common territory?"

A. The American field fence, the Pittsburgh Electric Weld, the Square Deal.

Q. Who makes that?

A. It is made by the Keystone Manufacturing Company or the Keystone Fence Company, I think it is; also the Apex.

Q. Where is that made?

A. I don't know.

Q. If Judge Dickinson does not mind, I will suggest: Is that the Janesville, Wisconsin, fence, or don't you know?

A. I think it is; I am not positive.

Q. All right, go ahead.

A. The Dillon, the Page, the Peerless; I don't recall any others now.

Q. Is there any Cyclone fence sold around there?

A. Yes; the Cyclone.

Q. What is the fact as to whether the competition in the sale of this fence is active or otherwise?

A. It is active.

Q. Take the matter of poultry fence: what poultry fence is sold in that territory?

A. There are two kinds of poultry fence. We call one a poultry fence and the other a poultry netting.

Q. Are they used for the same purpose?

A. They are used for the same purpose, but I do not want——

Q. I will make my question suit both of them, then: They are used to fence in poultry, both of them?

A. Yes.

Q. You call some of them fence and the other netting?

A. Yes.

Q. Just state what makes are sold in that territory, of the two?

A. I think, with the exception of one or two, the makers that I have named sell poultry fence.

Q. Most of the wire people make it?

A. Yes; they make the poultry fence. They do not all make the poultry netting.

Q. Mr. Priestley, how are the prices of woven wire fence now and how have they been in the last two or three years, compared with what they were twelve years ago?

A. They are considerably lower.

Q. Could you give an estimate of how much lower?

A. Yes; I should say from 25 to 30 per cent., taking into consideration the increased weight of some of the styles.

Q. Take the American fence: how is the weight of that fence, the ordinary type or size, as compared with what it was twelve years ago, the weight per rod?

A. Taking, for example, the seven twenty-six by six-inch stays, the weight has been increased per rod about a pound and a tenth, I think it is.

MR. DICKINSON: What does seven twenty-six mean?

THE WITNESS: It means it is 7 lateral bars 26 inches high, and 6-inch stays means that the upright stays are six inches.

MR. DICKINSON; It is seven by twenty-six, instead of seven twenty-six?

THE WITNESS: They distinguish it as seven twenty-six.

By MR. SEVERANCE:

Q. You say that weighs a pound and a fraction more than it did ten or twelve years ago?

A. Yes.

Q. Why is that; do they use heavier wire?

A. They use heavier wire.

Q. And it makes a stronger fence?

A. A stronger and a better fence.

Q. Leaving out the question of additional weight, and taking the bald question of the price per rod, how does it sell as compared with what it did twelve years ago? I do not mean exact figures, but relative figures?

A. About 25 per cent. less.

Q. Do you handle horseshoes?

A. Yes.

Q. What horseshoes do you handle?

A. The Phoenix.

Q. Have you bought any horseshoes from the American Steel & Wire Company?

A. No, sir.

Q. Do you handle iron or steel shoes?

A. Both.

Q. How long have you been handling the Phoenix shoe?

A. Since I have been in business.

Q. Do you handle any bar iron?

A. Yes.

Q. Where do you buy it? I mean bar steel by bar iron.

A. The Jones & Laughlin Steel Company.

MR. DICKINSON: Is this bar iron now?

MR. SEVERANCE: Bar steel. I called it bar iron, which is the trade name for it.

THE WITNESS: Jones & Laughlin, and we have bought of jobbers, and the Franklin Steel Company; well, not any bar iron, unless you call twisted rods bar iron.

By MR. SEVERANCE:

Q. Do you buy twisted rods from them?

A. The Franklin Steel Company, yes.

Q. Do you buy sheets?

A. Yes.

Q. From whom do you buy sheets?

A. From the Berger Manufacturing Company and the

Empire Iron & Steel Company and the Merchant & Evans Company.

Q. Do you ever buy any sheet from the Inland Steel Company?

A. And the Inland Steel Company.

Q. Did you ever buy any from the American Sheet & Tin Plate Company?

A. No.

Q. Do you buy sheet in carloads, or smaller quantities?

A. In the last two years our purchases have been largely in carloads.

Q. Do you find any variation in the prices asked by the different makers of sheets?

A. Yes.

Q. What considerations govern you in placing your orders for sheets?

A. Price.

Q. Where do you buy tin plate?

A. The N. & G. Taylor Company and the Merchant & Evans Company.

Q. Do you buy any from the American Sheet & Tin Plate Company direct?

A. No; we buy it other places, I do not recall just where they are now, but none of the American Sheet & Tin Plate Company.

Q. What considerations have governed your purchases of tin plate?

A. Price.

Q. You have spoken about the decrease in the price of fence; how do the average prices of nails in the last two or three years compare with what they cost you ten or twelve years ago?

A. Forty-five to fifty cents a keg less.

Q. How has it been with the other goods you have sold? Take axes, hatchets and hammers, are those higher or lower in price, and have they been for the last two or three years, than they were a dozen years ago?

MR. DICKINSON: We object to that as irrelevant, because

they are articles not made by the Corporation or any of its subsidiaries.

MR. SEVERANCE: Answer the question.

THE WITNESS: They are much higher than they were ten years ago.

By MR. SEVERANCE:

Q. How much higher?

A. I would guess from 33⅓ to 40 per cent.

Q. How is shelf hardware as a rule as compared with what it was ten or twelve years ago?

MR. DICKINSON: The same objection.

THE WITNESS: It is higher; I guess it is thirty to forty per cent.

By MR. SEVERANCE:

Q. How are cast iron stoves as compared with what they were ten or twelve years ago?

MR. DICKINSON: The same objection.

THE WITNESS: They are higher, averaging 33⅓ per cent.

By MR. SEVERANCE:

Q. How are bolts and screws?

A. Very much higher.

Q. How much higher are bolts than they were ten or twelve years ago?

A. An average of 33⅓ per cent.

Q. You do not handle wagons or implements, do you?

A. No, sir.

MR. SEVERANCE: You may cross examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Priestley, twelve years ago what was the price of bolts, and what kind of bolts did you have in mind when you answered the question?

A. Carriage and machine bolts.

Q. Just state what the prices were twelve years ago.

A. In the quantities we bought we paid 80 to 85 off.

Q. Eighty to 85 off?

A. Eighty to 85 per cent. discount.

Q. I am asking what the price was, not the discount.

A. Bolts are sold on a list and discount.

Q. What was the list price twelve years ago in bolts?

A. There are about a thousand different sizes of bolts and each has a list.

Q. Can you give the price of any of the thousand twelve years ago?

A. No, sir; only by the discount from the prevailing list at that time.

Q. You can give a discount, but you cannot give the list price?

A. Not from memory.

Q. Well, take axes. Were they sold by list and discount?

A. No, sir.

Q. Twelve years ago?

A. No, sir.

Q. How were they sold?

A. By individual dozen, or individually.

Q. Individual dozen? How did you buy them, by the separate axe or by the dozen?

A. By the dozen.

Q. Well, twelve years ago what did you pay a dozen for axes?

A. $4.50 to $6.50.

Q. That would vary as to the quality?

A. Yes, sir; on the brand and quality.

Q. Did you handle different brands during that time?

A. Yes, sir.

Q. Do you handle the same brands now?

A. Yes, sir.

Q. That you did then?

A. Yes, sir.

Q. What brand did you handle twelve years ago of axes?

A. We had the Mann.

Q. Who makes it?

A. The Mann Axe & Tool Company—I think it is something like that.

Q. And you have handled them during all this time?

A. Handled them all the time, and I think we handled the Kelly.

Q. Do you handle that now?

A. Yes, sir.

Q. Did you handle that twelve years ago?

A. Yes, sir.

Q. Which was the highest, the Mann or the Kelly?

A. I think they made similar brands.

Q. Similar brands?

A. That is, similar qualities.

Q. This $4.50 to $6.50 a dozen; did that apply to both of those makes?

A. Yes, sir.

Q. When did you last buy axes?

A. Six months ago.

Q. Who did you buy of?

A. Mann.

Q. Did you buy any of Kelly?

A. Only through the jobbers.

Q. Well, you bought the Kelly axe, did you?

A. I am not certain that we received any Kelly axes in the last six months.

Q. Then the only one you are sure about is the Mann, is it?

A. Well, we bought other axes besides the Mann. We bought jobbers' axes.

Q. How about buying the Mann axe; did you?

A. Yes, sir.

Q. And did you buy the same kind and quality that you bought twelve years ago?

A. Yes, practically the same thing.

Q. Any difference, any improvement in the quality at all?

A. No; we always bought a warranted article ten or twelve years ago, and we insist upon having the same now.

Q. Do they make no better axe now than they did ten or twelve years ago?

A. I think they probably polish and finish them up a little nicer than they did then; I do not think it is any better quality.

Q. But they polish and finish them up better; they put more work on them, do they?

A. About the same.

Q. Do you know the cost of making axes?

A. No, sir.

Q. You know nothing about that, do you?

A. No, sir.

Q. Take this last purchase that you made of Mann: how many different qualities did you buy from them?

A. Only one.

Q. What did you pay for that a dozen?

A. I cannot answer it positively; I can answer it reasonably near. I think it was $8.50.

Q. $8.50 what?

A. A dozen.

Q. Which quality was that, the best quality?

A. I do not know that there was more than one quality.

Q. You do not know?

A. No.

Q. But you know that as compared with those made twelve years ago there has been more work put on it in the way of making it acceptable for the market and polishing it up?

A. No; I do not think that is any better finished than those I bought of the Mann people at that time.

Q. Didn't you say a while ago that they had improved the finish?

A. On some brands.

Q. On some brands?

A. Yes; on some brands.

Q. Do you say that that brand was no different from what it was twelve years ago, and that they had not improved that in quality or appearance in twelve years?

A. I think the brand that I bought this year was no better finished than those I bought ten or twelve years ago.

Q. What brand was it that you bought this year?

A. I don't remember.

Q. You do not even remember the name of it?

A. No, sir; I do not remember the individual brand name.

Q. What brand did you buy twelve years ago?

A. I don't know that.

Q. How many kinds of brands did they make twelve years ago?

A. I don't know.

Q. How many kinds of brands do they make now?

A. I don't know.

Q. Then you do not know whether or not this brand you bought six months ago is the same brand that you bought ten or twelve years ago?

A. I do not.

Q. Now, take nails: in 1898 what price did you pay for nails in carload lots?

MR. SEVERANCE: I object to any question relative to 1898. I asked no question of the witness previous to 1901, the year the Steel Corporation was formed, and I object to any question as to dates previous to that, as not cross examination; and I also object to it as immaterial.

THE WITNESS: I don't remember.

By MR. DICKINSON:

Q. Did you buy any nails then?

A. Yes, sir.

Q. Did you buy them in carload lots?

A. I have no doubt that we did.

Q. Do you know whether the prices in 1898 were higher or lower for nails than they were in 1900?

MR. SEVERANCE: That is objected to as immaterial and not cross examination.

THE WITNESS: I don't know.

By MR. DICKINSON:

Q. Do you know whether they were higher or lower than they were in 1901?

MR. SEVERANCE: The same objection.

THE WITNESS: I don't know.

By MR. DICKINSON:

Q. Do you know whether the average price of nails in carload lots was higher or lower in 1900 than it was in 1901?

MR. SEVERANCE: I make the same objection.

THE WITNESS: I don't know.

By MR. DICKINSON:

Q. Can you give the price of nails for any time in any year from 1901 up to 1905, inclusive?

A. I would not want my answer confined to a calendar year, but during 1901 and 1902 there was considerable fluctuation, but I think the average would be $2.15 to $2.20.

MR. SEVERANCE: Was that delivered at your place?

THE WITNESS: No, sir; not delivered.

MR. COLTON: F. O. B. Pittsburgh?

THE WITNESS: You are talking about carload lots, you asked me, did you?

MR. DICKINSON: Yes. Was that f. o. b. Pittsburgh?

THE WITNESS: Yes, sir; I think that was about the average price for those two years, Pittsburgh.

By MR. DICKINSON:

Q. That was long tons, was it?

A. No, sir.

Q. Did you buy nails by long or short tons?

A. Short tons; 2,000 pounds to the ton.

MR. SEVERANCE: He has been talking about a hundredweight, haven't you?

THE WITNESS: Yes, sir.

By MR. DICKINSON:

Q. Per hundredweight?

A. Yes, sir.

MR. SEVERANCE: You can take it any kind of ton you want to.

By MR. DICKINSON:

Q. Do you say that you bought in 1900 f. o. b. Pittsburgh in carload lots as low as $2.15 a hundred?

MR. SEVERANCE: He did not say anything of the kind. You did not ask him; you asked him 1901 and 1902.

MR. DICKINSON: Wait a minute; I am asking him now if he said it. Will you please repeat the question?

(The stenographer repeated the question as follows:)

"Q. Do you say that you bought in 1900 f. o. b. Pittsburgh in carload lots as low as $2.15 a hundred?"

MR. SEVERANCE: I object to that as immaterial and not cross examination.

By MR. DICKINSON:

Q. You may answer the question if you can.

A. No, sir.

MR. SEVERANCE: That is in 1900?

THE WITNESS: Yes. The question was "Do you say"?

MR. DICKINSON: Yes.

THE WITNESS: I said I did not.

By MR. DICKINSON:

Q. What did you mean to say when you spoke of $2.15 and $2.20 a hundred, and what year did that price apply to?

A. In 1901 or 1902.

Q. And in 1900?

A. No, sir.

Q. Did you in 1901 buy by carload lots f. o. b. Pittsburgh as low as $2.15 a hundred?

A. If my memory serves me correctly I think it was $2.17 per hundred.

Q. My question is if you bought as low as $2.15. Do you answer that yes or no?

MR. SEVERANCE: It is a mere matter of figures. He says $2.17 is his recollection.

THE WITNESS: I think not.

By MR. DICKINSON:

Q. Do you know when the American Steel & Wire Company was formed?

MR. SEVERANCE: I object to that as immaterial and not cross examination.

By Mr. Dickinson:

Q. Do you know when it was formed?

A. Yes.

Q. Before that corporation was formed was not the price of nails lower than it was at any time for four years after that?

Mr. Severance: That is objected to as immaterial, and not cross examination.

The Witness: I do not remember the prices of nails prior to 1901.

By Mr. Dickinson:

Q. And you do not remember whether or not prior to the formation of the American Steel & Wire Company the price of nails was generally higher or lower than it was for the three or four years following its formation?

Mr. Severance: The same objection.

The Witness: I do not know.

By Mr. Dickinson:

Q. And you do not remember anything about that?

A. I don't remember anything about the price of nails prior to the year 1901.

Q. Did you buy any nails prior to 1901?

A. Yes, sir.

Q. Did you buy any in 1900?

A. Yes, sir.

Q. In 1899?

A. Yes, sir.

Q. In 1898?

A. Yes, sir.

Q. And in 1897?

A. Yes.

Q. In 1901 give the first month with respect to which you remember the price of nails?

A. I could not name the date in 1901 that we bought nails.

Q. Do you know whether the price of nails was higher after the United States Steel Corporation was formed in

1901 than it had been for the preceding six months before its formation?

A. I don't remember prior to the year 1901 what the price of nails was.

Q. It was formed in April, 1901. Do you remember the prices for January, February and March of 1901, as compared with the later prices in 1901?

A. No, sir; I do not.

Q. When did you last buy a carload lot of nails?

A. In the latter part of August or the first half of September.

Q. From whom did you buy?

A. From the Pittsburgh Steel Company.

Q. What did you pay f. o. b. Pittsburgh?

A. $1.60.

Q. Did you buy one or more carloads at that time?

A. I contracted for 50,000 pounds, and I think the only car that I have received on that contract weighed probably 40,000 pounds.

Q. When did you make that contract?

A. About June 1, I think, 1913.

Q. Is it a written contract?

A. Yes, sir.

Q. Now, how long were you negotiating that contract with the Pittsburgh Steel Company?

A. About a minute.

Q. Just state with whom you negotiated it.

A. The representative from the Chicago office; I cannot recall his name.

Q. He came to you?

A. Yes.

Q. Just state what passed between you.

A. He asked me if I would make a contract for 25 tons? I told him I would if the price was satisfactory, and he made me a price and I signed the contract.

Q. Did you know he was coming before he came there?

A. No, sir.

Q. He came in and asked you if you would contract, and

gave you a price satisfactory to you and you closed that at once?

A. I did.

Q. When did you buy a carload lot next before that, and from whom did you buy it?

A. The one I received prior to that I got from the American Steel & Wire Company.

Q. Was that a carload lot?

A I was just thinking whether there was anything in with it except nails or not.

Q. Was that a large quantity of nails?

A. Yes; that was practically a carload of nails. I think we had some wire products in with it, that is, smooth wire and barbed wire, probably.

Q. All shipped together?

A. Yes.

Q. When was that contract made?

A. There was no contract in the sense of the contract into which I had entered with the Pittsburgh Steel Company.

Q. When was that purchase made?

A. I think I got the car in which the nails came about in April.

Q. In April?

A. Well, it may have been a few days—it was along in the spring.

Q. Of 1913?

A. Yes.

Q. You say you got the car, but I want to know when you made the purchase.

A. Just before the shipment was made.

Q. How long before the shipment?

A. Probably a couple of weeks.

Q. Whom did you make that purchase of?

A. The American Steel & Wire Company.

Q. I understand; but who represented them?

A. I think I mailed them the specifications.

Q. You think you mailed them the specifications?

A. I think I mailed them the specifications for the car.

Q. Don't you know how that was? Can't you state positively what occurred in 1913?

A. Yes; I mailed the specifications.

Q. What negotiations had you had with them, and how long had they pended before you mailed them the specifications?

A. The price for that car I think I got when I was in Chicago and called at the office of the American Steel & Wire Company.

Q. You called at their office?

A. Yes.

Q. Did you get a price on nails and these other things that were included in that shipment?

A. Yes.

Q. How long were you negotiating that transaction?

A. I do not know what you mean by that.

Q. I mean, how long had you spent in their office on the subject matter of that trade?

A. I merely got the quotation when I was in the office.

Q. Did you get the quotation on these articles separately, or did you get a price on the whole purchase?

A. I think all I asked for was a base price on nails.

Q. A base price on nails?

A. Yes.

Q. What price did you pay them?

A. $1.80 f. o. b. Pittsburgh.

Q. How long after you saw them in Chicago before you sent that order?

A. I think I sent the specifications on my return home.

Q. Immediately?

A. Within a day or two.

Q. Now, on that particular purchase did you get any bids from anybody else?

A. Yes. I had had quotations made me by other concerns.

Q. At the same time that the American Steel & Wire Company made this quotation, or did you just have a general knowledge of prices?

A. I had a general knowledge, and I had some quotations.

Q. Did you solicit quotations on that particular purchase

from anybody other than the American Steel & Wire Company?

A. No; I think I was solicited.

Q. Who solicited you; what persons; just state who they were.

A. The Pittsburgh Steel.

Q. Where was the solicitation made?

A. At Princeton, at my store.

Q. When was it made with reference to the time you visited the American Steel & Wire Company?

A. Within a reasonable period.

Q. What would you consider reasonable?

A. Two weeks to ten days, possibly, before.

Q. Two weeks or ten days, possibly, before?

A. Yes.

Q. Did you get any quotations from anybody else?

A. Yes, the Youngstown—well, it is that organization—it is not the Youngstown Sheet & Tube Company. The Youngstown Iron & Steel Company; I think that is the name. Their representative called upon us.

Q. When, with reference to the time of your visit to Chicago, before or after that?

A. Within a few days before.

Q. Before that?

A. Yes.

Q. How many days before?

A. I cannot state positively, but I think within thirty days.

Q. You think within thirty days?

A. Yes; thirty days, maybe less.

Q. Is that as near as you can come to it, thirty days?

A. Yes.

Q. Well, now, what prices did they quote you, each one?

A. On that car, the same price.

Q. So all three of the quotations on that car were the same price?

A. Yes.

Q. When was the car that you purchased next after that?

A. 1912, but I do not remember.

Q. How many carload purchases did you make in 1912; how many separate ones?

A. Of nails?

Q. Yes.

A. I think most of the nails I bought in 1912 had some other product.

Q. And did you take a lump bid on all or not?

A. No, sir.

Q. What was the base price that you paid on nails in 1912?

A. Nails fluctuated in 1912. I think I bought approximately enough nails to make about three cars in 1912.

Q. In how many different purchases?

A. Probably in four; maybe five.

Q. Four to five?

A. Yes, sir.

Q. Now, from whom did you buy these three carload lots?

A. American Steel & Wire Company.

Q. All of them?

A. All of them.

Q. And you made four or five purchases from them?

A. I ought to explain that this is wire nails. I do not want you to believe I did not buy any nails other than wire nails, you understand. We do buy other nails.

Q. Cut nails?

A. Yes, sir; cut nails.

Q. Then I understand that all you have said about nails has been wire nails, has it?

A. Yes.

Q. Take these four or five purchases of wire nails in 1912, all of which you say were from the American Steel & Wire Company; can you give the prices on any of these purchases, base Pittsburgh?

A. I think the average price that I paid in 1912 would be around $1.85, f. o. b. Pittsburgh.

Q. You have given an average; can you give the price that you paid for any one of these purchases?

A. No, sir.

Q. Can you give us the details of the negotiations leading

up to the purchase, and how they were made and with whom made and whom you solicited or who solicited you on each one of these particular transactions, and what the quotations were? If you can, just start in now with the first one that you remember and give us that, and then we will go to the others later.

A. On any one single transaction?

Q. Yes; if you can remember now any one single transaction in 1912 in which you can give all these details or any of them.

A. I cannot give you the details of any one single transaction.

Q. Or the prices quoted on any one single transaction?

A. No, sir.

Q. Or their relation to each other?

A. No, sir.

Q. Well, now, take 1911: Suppose I should ask you about your purchases of wire nails and the various purchases that you made and the negotiations leading up to them and the prices paid for each and the quotations made and who made them on these transactions; could you give me the information as to any one of these transactions for 1911?

A. I think prior to 1912, about that time, we purchased all of our nails from manufacturers other than the American Steel & Wire Company.

Q. Prior to 1912?

A. I think about that time.

Q. I did not ask you that. I will begin now and ask you these questions in detail.

A. You want the specific transactions?

Q. I asked you that question in order to avoid a number of questions, but of course if you do not understand it, I will go on and extend it. Would you like to have the question read again?

A. The question was can I give you any specific transaction in 1911?

Q. Yes.

A. I cannot.

Q. Of course I mean the various details that I mentioned there, or any of them?

A. I would like to have the question read again.

Q. I was trying to save all of this time. I think maybe I had better go at it in this way.

MR. SEVERANCE: I think if you put one question to him he will understand it.

MR. DICKINSON: I am trying to save time.

MR. SEVERANCE: I think if you repeat the question, he can answer it.

MR. DICKINSON: Suppose you read the question to him, Mr. Stenographer.

(The question was repeated by the stenographer as follows:)

"Q. Well, now, take 1911: suppose I should ask you about your purchases of wire nails and the various purchases that you made and the negotiations leading up to them and the prices paid for each and the quotations made and who made them, on these transactions, could you give me the information as to any one of these transactions for 1911?

THE WITNESS: On our purchases in 1911 we solicited prices and gave the business to the one making us the best quotation.

By MR. DICKINSON:

Q. What was the first time in 1911 that you bought a carload lot?

A. I do not remember. We usually buy a carload in the spring.

Q. Do you know that you did buy one in the spring of 1911?

A. I am reasonably certain that we did.

Q. How many carload lot purchases did you make in 1911?

A. Two, and possibly three.

Q. Can you name the month that you made any one of these in?

A. No, sir.

Q. Can you name the quarter of the year in which you made any one of these?

A. I think the first quarter would cover the first car.

Q. You cannot give the month, though, in the first quarter?

A. No, sir.

Q. Now, was that bought f. o. b. Pittsburgh?

A. We have been buying nails for a number of years f. o. b. Pittsburgh with freight added on the invoice.

Q. Can't you answer whether that was bought f. o. b. Pittsburgh? That was the question.

A. Yes, sir; the price was on the basis of f. o. b. Pittsburgh.

Q. What price did you pay on that purchase?

A. I don't remember.

Q. Now, whom did you buy that carload of?

A. I do not remember that.

Q. Well, how long did the negotiations pend before you made that purchase?

A. I wrote for quotations, and on receipt of the quotations mailed the specifications.

Q. You are sure that transaction was made upon quotations that you solicited, or was it made by one of these others that you mentioned, by their solicitors coming to you?

A. I think possibly the first car in 1911 may have been done by correspondence, or after the correspondence the representative may have come to see me to get the business. I do not remember.

Q. Do you know who quoted on that?

A. That specific car, no.

Q. And you do not know what the quotations were then?

A. I do not remember.

Q. Or the relation they bore to each other?

A. Yes; there was a variation in the quotations.

Q. You say you remember, now, there was a variation, and you can not give any figures as to what the quotations were?

A. I only remember that there was a variation, and I bought at the lowest quotation.

Q. Do you remember now that there was a variation in that particular transaction?

A. Yes, sir.

Q. Well, now, just state, if you can, who made the quotations.

A. I do not remember who I bought that car of.

Q. And you can not tell who made the highest price and who made the lowest price?

A. No, sir.

Q. And how many bid?

A. I usually get three or four bids on my purchases; that is, quotations.

Q. I am not speaking now of your custom; I am speaking of what you can state as to that transaction.

A. I can not remember it.

Q. Now, take the next carload purchased that year: when was that?

A. I do not remember positively what month it was in that year.

Q. Can you give the quotations?

A. No, sir.

Q. And who made them?

A. No, sir.

Q. The other purchases for that year: can you give the quotations and who made them?

A. I am not sure that I purchased more than two cars that year.

Q. Do you know how many of these quotations were alike and how many were different?

A. On that second car?

Q. On all the purchases for that year, or any of them.

A. The purchases I made were made five to ten cents less than the general quotations I received. How many I received I can not tell you.

Q. Or how many were alike, or how many unlike, you cannot tell that either, can you?

A. No, sir.

Q. What do you mean by general, "the general quotations that you received"?

A. When I am in the market for nails I have written for prices.

Q. Are you always able to make a purchase below any price that is quoted to you first?

A. No; sometimes the first prices are the lowest.

Q. What do you mean by the price generally quoted? Did you have any special meaning in that? I would like to know if you did.

A. No, nothing more than the general market quotation on nails.

Q. And there is a general market quotation, is there?

A. Yes, sir.

Q. And that appears how, in the trade papers?

A. I get the trade papers.

Q. What trade papers?

A. The Iron Age, and the Hardware Age.

Q. And that would frequently be the price quoted to you?

A. I have usually been able to do better——

Q. I am not asking you that.

You spoke of general quotations and your buying five or ten cents lower. I am asking about the prices generally quoted to you on the first quotation.

A. On the first series of quotations you mean?

Q. Yes.

A. Yes, I think that the Iron Age, or the Hardware Age as it is called now, usually quoted about the same price.

Q. What do you mean by usually quoted? I do not catch that.

A. Well, the most of my quotations I would get would conform with the Iron Age quotations, or the Hardware Age, I should say.

Q. I have asked you particularly about the year 1911 just now. Could you give us any more information on these questions I have asked you for any of the preceding years than you have given in respect to the year 1911?

A. Not for any one specific year.

Q. If I should, for each of those years, address you the same class of questions that I have, would your answers for those years be substantially the same as for the year 1911?

A. Yes, sir.

(Whereupon a recess was taken until 2 p. m.)

AFTER RECESS.

HOWARD H. PRIESTLEY,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION (Continued)

By Mr. Dickinson:

Q. Mr. Priestley, how long have you been buying tin plate?

A. I commenced buying tin plate for my father.

Q. You have been buying it twelve years, have you?

A. Oh, yes.

Q. That will be sufficient, then.

A. Yes; probably thirty.

Q. In 1901 do you know the tonnage you bought in tin plate?

A. No, sir; I do not.

Q. Do you know from whom you bought it in 1901?

A. No, sir.

Q. Do you know whether it was by contract, or just purchased as you needed?

A. I never made a contract for tin plate.

Q. In 1901 do you know what brands of tin plate you bought?

A. No, sir.

Q. Do you know from whom you took quotations in that year or what they were or how they were related?

A. No, I could not say definitely.

Q. What is the first year, counting from the present time, in respect to which you can recall the tonnage or number of boxes you bought in tin plate, from whom you purchased, and the brands and prices and quotations, and who made the quotations?

A. I could not answer that question.

Q. You bought some tin plate this year?

A. Yes, sir.

Q. How many boxes?

A. Approximately 40.

Q. And last year about how much?

A. I don't remember. We use about the same average—probably around 30 to 40 boxes a year.

Q. As to sheets do you know the tonnage you bought of sheets in 1901?

A. No, sir.

Q. What kind of sheets do you buy mostly?

A. Sheet iron; that is, it is soft steel, I suppose, about that time.

Q. Do you buy mostly common black sheet or galvanized?

A. More galvanized than black sheets, but we buy both.

Q. What tonnage have you bought in each for 1913?

A. Approximately 40 tons of galvanized.

Q. How much black?

A. Very little. It is a very insignificant part of my purchases.

Q. The galvanized last year: what tonnage did you buy?

A. I don't remember the tonnage.

Q. Do you know how many different transactions there were last year under which you purchased sheets?

A. No, I could not tell you the number.

Q. What was the largest amount you bought at any one time last year?

A. One carload.

Q. How many tons would that be?

A. I have forgotten the car minimum; I think it is 36,000. I bought a full car, whatever the minimum car was.

Q. 36,000 pounds, you mean?

A. Yes.

Q. From whom did you buy that?

A. When?

Q. Last year. You said you bought one carload, I think. Have I got that wrong?

A. I bought more than one car. I don't think I said I bought only one car.

Q. Just tell me, then, the various times last year you bought as much as one car, and when you made these several purchases, from whom you bought.

A. I don't remember when I made them.

Q. And you don't remember from whom you bought them?

A. No, sir.

Q. Do you remember the prices at which you bought them?

A. Last year?

Q. Yes. These various ones. Just give the ones for each transaction.

A. Not accurately.

Q. Do you remember the quotations?

A. No, sir.

Q. Or their relation to each other?

A. They varied.

Q. Do you know how many of them varied or how many were alike, or what the relation was? Can you give us any detailed information on that subject?

A. The variations were from five to thirty-five cents per square. This is roofing I am talking about now.

Q. Roofing?

A. Yes; because we buy more roofing than we do galvanized sheets. I suppose that is what you wanted—the galvanized products.

Q. That is what I was asking about then. When did you buy this first carload lot in 1912?

A. I don't remember.

Q. You do not remember the month?

A. No, sir.

Q. Do you remember whether it was the first quarter or the second quarter of the year?

A. No, sir; not positively.

Q. You do not know of whom you bought?

A. No, sir.

Q. Nor the price you paid for it?

A. No, sir.

Q. Do you know who bid on it?

A. Not positively on the first car; I know generally.

Q. Can you give any of the bids made by the bidders on the first car?

A. No, sir.

Q. Take the second car; when was that?
A. I don't remember.
Q. Don't you know what part of the year?
A. No; I would not swear to the time of year.
Q. Whom did you buy that of?
A. I don't remember.
Q. What price did you pay for that?
A. I don't remember.
Q. Can you state who bid on it?
A. Not positively.
Q. Can you state what the bids were?
A. No.
Q. Or any of them?
A. No.
Q. On this kind of galvanized roofing that you have been speaking of, is there a base price on that?
A. I think the base price is made for what they call the standard; I think it is usually 29 gauge.
Q. Are you sure of that?
A. No; but I have always bought by gauge.
Q. Do you buy delivered or f. o. b. at some point?
A. Delivered.
Q. Who paid the freight, the vendor or you?
A. You are speaking of the second car or generally?
Q. I am speaking about the first and second; I have spoken about those two.
A. I do not remember in either instance who paid the freight, whether we paid it and deducted it from the invoice or not.
Q. Now, take the years back of 1912; have you any recollection in any year for any purchase as to the prices at which you bought, either this galvanized sheet or tin plate or black sheet?
A. No, sir; I could not give you definite information.
Q. Or from whom you bought?
A. For a number of years I bought some tin plate of N. & G. Taylor Company and the Merchant & Evans Company.
Q. I am asking now if you can particularize in any year

and can give the quotations for any year and who bid on any purchase for any year.

A. Not any specific years.

Q. Did you buy the same kind of tin plate from N. & G. Taylor that you did from other people?

A. No, sir.

Q. It was a different brand?

A. It was a different brand.

Q. On that particular brand you did not take any prices, except on that brand?

A. That was all.

Q. Those brands differed, and some people have their preferences, some bought one and some bought another, and you kept them in stock to supply those preferences?

A. Yes.

Q. And those particular kinds of tin plate you bought from those who made them without any reference to anything else?

A. N. & G. Taylor's I bought without reference to any other.

Q. Did you buy some other brands?

A. Yes.

Q. You had some customers that wanted those brands?

A. No other brands that I carry are specified in any specifications that I bid on.

Q. What is M. F. tin; do you know that?

A. I do not know what it is; I have seen it in quotations.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Priestley, when these mills are quoting you on nails, for instance, and things of that character, have you ever observed how the quotations made to you compared with quotations appearing in the Iron Trade Review or the Iron Age or the other trade papers?

A. They have always varied. I always got a variation of prices.

Q. How have they been as to being approximately as in the trade papers?

A. Only approximate; the trade paper quotations are only used, I think, by buyers to get an approximate price.

Q. But they do give an approximate price, do they?

A. Yes.

Q. And that gives you a general idea of the market?

A. Yes.

Q. Do you take both of those papers or only one?

A. I take the Hardware Age.

Q. Is that the one that has always been known as the Iron Age?

A. Yes; that is its successor.

Q. When did they change the name? I did not know of the change until this morning.

A. Lately, about a year ago.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. Before adjournment you spoke of quotations being the same, did you not, as the trade paper prices?

A. I stated, as I supposed, that when I was in the market I got quotations and some of them were the same usually as the Iron Age quoted. Others varied and were less.

Q. Is it in your mind now, any particular time when they varied?

A. I think they have always varied.

Q. You do not know any more about that now than you did before we adjourned, do you?

A. If I stated before we adjourned that my quotations received were the same as in the Iron Age, through, I was in error.

Q. I do not think you said they were the same as the Iron Age, through, but didn't you say that they were generally the same?

A. I meant approximately, if I said generally.

Q. You think generally and approximately are the same thing?

A. I do not; no, sir.

Q. Did you understand the questions that were addressed to you by me before lunch?

A. I don't think so.

Q. Then I will have the record brought back and put the same questions to you. While it is coming I will ask you some other questions. You spoke of quotation and purchase price. Did you mean that the price at which you purchased was different from the quotation in the trade papers, or that the quotations that were made to you were different from the trade papers?

A. The quotations made to me were different.

Q. All of them different from each other?

A. No, sir; you mean all the quotations different?

Q. I mean to say on any particular transaction, on any of these things which you testified to having purchased where you got quotations from competitors, do you mean to say or not that all those quotations that were made to you differed from the trade paper quotations as of that time?

A. I think a few of them may have been the same.

Q. Do you know now how many of them were the same at any time and how many were not?

A. No; I don't remember.

Q. Have you any better memory about that now than you had before lunch?

A. I do not remember what the question was you were referring to.

Q. I mean on this question of trade paper prices and quotations and variation or similarity in quotations, have you got any better memory on that subject now than you had before we adjourned at lunch?

A. No, sir.

Q. I asked you this question: "Q. What do you mean by 'usually quoted'? I do not catch that." You answered: "A. Well, the most of my quotations I would get would conform with the Iron Age quotations, or the Hardware Age, I should say." "Q. I have asked you particularly about the year 1911 just now."

Did you or not understand that question I put to you?

A. Just repeat the question to me again.

Q. "Q. What do you mean by 'usually quoted'? I do not catch that." Did you understand that question?

A. I would have to know more——

Q. I will read you back of that. I will begin on page 17691 of the typewritten record.

"Q. What do you mean by 'general,' the general quotations that you received?"

Did you understand that question?

A. Yes.

Q. You answered: "A. When I am in the market for nails I have written for prices." Did you mean to make that answer?

A. Yes, sir.

"Q. Are you always able to make a purchase below any price that is quoted to you first?"

Do you understand the question?

A. Yes.

Q. You answered: "A. No; sometimes the first prices are the lowest."

Did you mean to make that answer?

A. Yes, sir.

Q. "Q. What do you mean by the price generally quoted? Did you have any special meaning in that? I would like to know if you did."

Did you understand that question?

A. Yes, sir.

Q. You answered: "No, nothing more than the general market quotation on nails."

Did you mean to make that answer?

MR. SEVERANCE: It is rather difficult for me to follow that question and answer. I don't know whether the witness can do it or not.

MR. DICKINSON: I am taking it just as it is.

MR. SEVERANCE: I am sure that you are

THE WITNESS: Just read the statement before that.

By Mr. Dickinson:

Q. The question and answer before that?

A. The question, now.

Q. "Q. What do you mean by the price generally quoted? Did you have any special meaning in that? I would like to know if you did."

"A. No, nothing more than the general market quotation on nails."

A. We were talking about nails at that time?

Q. Yes.

A. Yes; I understood that, I think.

Q. And meant to answer that?

A. I think so.

Q. "Q. And there is a general market quotation, is there?" Did you understand that question?

A. Yes, sir.

Q. You answered: "A. Yes, sir." Did you mean to answer "Yes, sir?"

A. Yes, sir.

Q. "Q. And that appears how, in the trade papers?" Did you understand that?

A. Yes, sir.

Q. "A. I get the trade papers." Did you say that?

A. I think so.

Q. "Q. What trade papers?" Did you understand that question?

A. Yes, sir.

Q. "A. The Iron Age, and the Hardware Age."

A. I meant to correct that. Instead of having the Iron Age, I take the Hardware Age. I meant to correct that statement when I continued and said "the Hardware Age."

Mr. Severance: You understand what he says now, don't you, Judge?

Mr. Dickinson: Yes, on that.

By Mr. Dickinson:

Q. The Iron Age is the same as the Hardware Age?

A. Yes; I corrected myself when I said "Hardware Age."

Q. "Q. And that would frequently be the price quoted to you?" Did you understand that question?

A. Yes, sir.

Q. "A. I have usually been able to do better." Did you mean to answer that?

A. Yes, sir.

Q. "Q. I am not asking you that. You spoke of general quotations and your buying five or ten cents lower. I am asking you about prices generally quoted to you on the first quotation." Did you understand that?

A. Yes, sir.

Q. "A. On the first series of quotations, you mean?" You asked me that, and I said "Q. Yes."

A. Yes, sir.

Q. And then you answered: "A. Yes, I think that the Iron Age, or the Hardware Age, as it is called now"—that is where you made the explanation—"usually quoted about the same price." You said that, didn't you?

A. Yes, sir.

Mr. Severance: That is what he said this afternoon.

The Witness: That is all right.

By Mr. Dickinson:

Q. "Q. What do you mean by 'usually quoted'? I do not catch that." Now, is that question plain to you?

A. Yes, sir.

Q. "A. Well, the most of my quotations I would get would conform with the Iron Age quotations, or the Hardware Age, I should say." Didn't you say that?

A. I may have said it, but if I did, I did not understand it. I did not get the full meaning.

Q. You mean to say that you did not understand those words: "Q. What do you mean by 'usually quoted'?" What is there about that you don't understand?

A. You just read that again to me. I would like to get that straight.

Q. "Q. What do you mean by 'usually quoted'? I do not catch that." I want to know what there is about that that is

hard to understand, or what there is about it that you do not understand.

A. One thing that would be hard to understand—whether you mean the usual trade quotations or the special quotations.

Q. What did you understand?

A. I took it in a general way.

Q. What is that?

A. I took it in a general way.

Q. What do you mean by "general way"?

A. The quotations that I received and saw.

Q. Because you answered: "A. Well, the most of my quotations I would get would conform with the Iron Age quotations, or the Hardware Age, I should say." You understood that question, didn't you?

MR. SEVERANCE: That is an answer, isn't it?

MR. DICKINSON: No; I mean the question I put, to which that answer was made.

THE WITNESS: Well, if I did, I did not answer it correctly.

By MR. DICKINSON:

Q. Didn't you deliberate a long time, as you have on every one of your answers, before you answered it?

A. I don't remember; I do not remember that I spent any time.

Q. When did you find out that you had a different mind on that subject, and how did you find it out?

A. It was mentioned to me.

Q. During adjournment?

A. Yes, sir.

Q. Now, Mr. Priestley, do you say that for any time during that period in respect of any purchase that you made on which you got quotations, that you carry in your mind the variations, or that there were variations, in respect to any particular purchase, as to the quotations made to you?

A. What is that particular time?

Q. I am just asking if you have got any particular time. If you have, just tell us.

A. Let me hear the question again. What is the question?

MR. DICKINSON: Read the question.

(The question was repeated by the stenographer as follows:)

"Q. Now, Mr. Priestley, do you say that for any time during that period in respect of any purchase that you made on which you got quotations, that you carry in your mind the variations, or that there were variations, in respect to any particular purchase, as to the quotations made to you."

THE WITNESS: That period is the thing I do not understand.

By MR. DICKINSON:

Q. The period of twelve years over which you have been buying; that is the period we have been talking about.

MR. SEVERANCE: May I ask: Does that question include an inquiry as to whether he recollects specific quotations made to him?

MR. DICKINSON: I think the question is plain.

MR. SEVERANCE: I don't think it is.

MR. DICKINSON: If he says he don't understand it, I will keep at it until he does, if it is the end of the week. I am going to have him understand my questions.

THE WITNESS: My conception of your question is pretty vague.

By MR. DICKINSON:

Q. Your what?

A. I do not think I understand the question.

Q. Mr. Priestley, have you got any recollection as to any quotations made to you in any of those years, in respect of any purchase that you made?

A. I could not give you from memory the different quotations received.

Q. Have you got any definite memory as to the relation of any quotations received by you at any particular time within that period to the prices that were then quoted in the Iron Age or the Hardware Age?

A. I cannot give you the particular time.

Q. Can you give any instance?

A. No; I do not carry those things in my mind.

Q. During that period of 12 years can you specify any purchase that you made on any of these articles that you have purchased, where you can give the prices quoted to you and the persons who quoted them, and the relations of those prices to the prices then quoted in the Iron Age?

MR. SEVERANCE: I object to that as having been answered twice.

MR. DICKINSON: He does not always stand by his answers.

MR. SEVERANCE: Yes, he does.

MR. DICKINSON: No. He came in here and said that he did not stand by one.

MR. SEVERANCE: This question is precisely the question you asked him just a moment ago and he answered and said he could not remember.

MR. COLTON: It might be necessary to repeat it a dozen times if he is going to change his mind after a while.

MR. SEVERANCE: I was addressing myself to Judge Dickinson, Mr. Colton.

(By request of the witness the question under discussion was repeated by the stenographer, as follows:)

"Q. During that period of twelve years can you specify any purchase that you made on any of these articles that you have purchased, where you can give the prices quoted to you and the persons who quoted them, and the relations of those prices to the prices then quoted in the Iron Age?"

THE WITNESS: No.

By MR. DICKINSON:

Q. What information have you got now on which you base the statement that the prices quoted to you were different, any of them, from the prices quoted in the Iron Age? Have you got any knowledge on that subject? If so, just state what it is.

A. I have gone into the market for all of my purchases to buy as low as I could, on a cash basis, and——

Q. But have you——

MR. SEVERANCE: One moment. Let him finish his answer.

MR. DICKINSON: I thought he had finished. Had you finished, Mr. Priestley?

THE WITNESS: No, sir. I will ask to have the question read again.

(The stenographer read the pending question and the unfinished answer.)

THE WITNESS: I have gone into the market for all of my purchases, to buy as low as I could on a cash basis, and, naturally, receiving the quotations, have made comparisons and come to the conclusion that there was a variation from the trade reports.

By MR. DICKINSON:

Q. When do you remember that you came to that conclusion before to-day?

A. I think I got that in 1882, and it has been pretty thoroughly impressed upon my mind ever since.

Q. Can you give any transactions since 1901 where you know that that took place?

A. No single instance.

Q. You stated that you bought below the quotation, did you not?

A. Do you mean below——

Q. Below the first quotations that were made to you?

A. Not always.

Q. Sometimes you did?

A. Yes, sir. Sometimes the first quotation was the lowest.

Q. When you bought below the quotations did you have any further interest in the quotations that had been made?

A. I don't know what you refer to by the "first quotation."

Q. I mean that when you solicited quotations for any particular purchase, and then, by negotiation or otherwise, bought below those quotations, did you have any interest further than that in the quotations that had been made to you?

A. No, sir; I did not try to keep them in mind after I had consummated the deal.

Q. And after these transactions had been closed, you did not try to keep them in mind, did you?

A. No, sir.

Q. When did you begin to think first about these quotations and their relation to the market price as quoted to you in the iron trade papers?

A. Through my experience as a buyer, commencing in 1882, I think it was.

Q. I mean, now, when did you undertake to refresh your memory on that subject? You have had no occasion, have you, to consider transactions five or six years old, so far as quotations were concerned? That did not concern your business, did it?

A. I will have to have that question repeated.

Q. Never mind. I will ask you another question: After you closed a purchase, did you have any occasion to bear in your mind after that the question of quotations, their relations to each other and their relation to the market?

A. Only as a buyer always carries those things.

Q. Does a buyer always carry quotations years back in his mind? If so, just give us some from your mind.

A. Well, he does not.

Q. That is what I have been trying to get you to give. If you have always carried them, just tell us a few that you carry?

A. I cannot answer that question.

Q. Do you carry in your mind any quotations of those times?

MR. SEVERANCE: I object to that, because it is a waste of time to ask him. He has answered that specific question several times.

MR. DICKINSON: I do not think it is a waste of time. I think this witness has fully justified this examination.

THE WITNESS: I do remember an instance.

By MR. DICKINSON:

Q. An instance? Which one?

A. About the last purchase of nails.

Q. When?

A. I think it was the latter half of August or the first of September.

Q. In what year?

A. 1913.

Q. Do you recollect anything back of that?

A. The first of the year, I think, I recollect.

Q. What did you say that you carry in mind, that you have just referred to—that you recollect?

MR. SEVERANCE: What are you referring to—the August and September dates?

THE WITNESS: The spring or the fall.

By MR. DICKINSON:

Q. Of what year?

A. Of 1913. It was either the spring or the fall of 1913.

Q. It was either the spring or the fall of 1913? Is that as nearly as you can get to that instance that you carry in your mind?

A. I would like to go back two or three questions there and get the sense.

(The stenographer repeated the last three questions and answers.)

MR. SEVERANCE: The witness means the fall of 1912, evidently.

MR. DICKINSON: He said 1913.

MR. SEVERANCE: And I wish to object that this is mere repetition——

MR. DICKINSON: But the record has been made. You cannot change the record. You can ask him anything you please, but the record is made here in the presence of the Master, and I will not have that changed.

MR. SEVERANCE: I am not asking to have it changed.

MR. DICKINSON: I beg your pardon. I thought you said that was not it.

MR. SEVERANCE: No; I have not asked to have any change made in the record.

MR. DICKINSON: Very well.

MR. SEVERANCE: I was going to submit an objection that this is mere repetition, for the reason that counsel examined the witness fully with reference to his nail purchases in the spring of 1913. He gave about the month he made it; he gave his various quotations that he received, and he said he got the same quotations, as I recall, from three manufacturers. Consequently, it is a mere waste of time to go over that again. You have already gotten the best that you can hope to get from him on that.

By MR. DICKINSON:

Q. Is that the one you have in mind now, the one that Mr. Severance has just referred to?

A. I have both of them in mind, purchases in 1913.

Q. You mean you have the one he has just designated, and another one?

A. Yes, that other one in what I call the fall of 1913; it was the latter half of August or the first part of September.

MR. SEVERANCE: I can explain to you, Judge. You did not ask him about what competitive quotations he had on that purchase. He said from whom he bought, and you did ask him about the quotations made to him on the previous carloads in the spring, and he gave you those. Mr. Colton will verify that.

By MR. DICKINSON:

Q. What other instance have you in mind except in 1913?

A. I have no single instance in mind.

Q. So that all the instances you can give are those two in 1913?

A. Yes.

Q. Now, the prices that were quoted to you, where all three were the same in 1913, did you compare them with the prices quoted in the Iron Age?

A. I was posted on the quotations in the Iron Age at the time.

Q. You have not answered my question.

A. Yes, mental comparison.

Q. How did they differ, do you know, if any?

A. I got more than three quotations on that at that time, but there were three that were alike that I remember.

Q. I didn't ask you that. I asked you as to the prices you got. Do you know how they differed, if any, from the prices in the Iron Age? Do you understand that question?

A. I thought you had reference to three prices that I got. I think, if you will read your context, I had reason to think you meant those three.

Q. You stated one instance where you spoke of three prices that were exactly the same; you remember that, do you not?

A. Yes.

Q. Now I am asking you whether or not you know what relation those prices bore to the prices then quoted in the Iron Age. Do you understand that?

A. Yes.

Q. Can you answer it?

A. Yes.

Q. Please do so.

A. It is my memory that on the first car I got three quotations that were similar quotations, that came from the Iron Age—Hardware Age.

Q. Do you mean to say by "similar" that they were the same as those in the Iron Age or not?

A. I think they were the same.

Q. Was that the spring or fall purchase?

A. The spring.

ALBERT M. WALTY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Where do you live?

A. Colchester, Illinois.

Q. How long have you lived there?

A. Twenty years.

Q. What is your business?

A. General hardware, farm machinery, buggies, harness and furniture.

Q. Have you been in that business all the time there?

A. I have been twenty years there, yes.

Q. In that same business?

A. That same business.

Q. Carrying the same line of goods?

A. No, in the furniture business ten years.

Q. And have you carried agricultural implements and hardware of various kinds during the whole period?

A. Yes, sir.

Q. Do you carry shelf hardware?

A. Yes.

Q. And cutlery?

A. Yes.

Q. Axes?

A. Yes.

Q. And hoes?

A. Everything carried in a general hardware store in a country town.

Q. What, if any, of your requirements do you buy in carload lots?

A. Well, I usually buy my nails in car lots, nails and barbed wire and smooth wire.

Q. Do they usually come together?

A. Yes, and I buy steel fence in car lots, and I buy my implements in car lots, and wagons and buggies in car lots.

Q. Where have you been in the habit of buying your nails?

A. I buy most of them from Jacob Hish Hardware Company, of DeKalb, Illinois.

Q. Do you receive quotations on nails from other people?

A. Yes; I get them from traveling men.

Q. Are there a good many traveling men representing the different mills?

A. Yes; I get so many—Oh, yes. The hardware men come through there, and I get quotations from them, and of course there are wire men come through there and I get quotations from them.

Q. The manufacturers of wire?

A. Yes.

Q. How do the quotations that you receive from different people at or about the same time, when you are about to make your purchase, compare, as to being uniform or varying one from the other?

A. Why, they usually vary five to ten cents a hundred pounds.

Q. Do you buy from this Hish & Company solely on the ground of price, or what is the reason?

A. Well, usually I buy one carload of barbed wire and nails, which runs me out, and if I fall short on nails I sort up from the general hardware trade jobbers, when I run out of certain sizes. About 200 or 250 kegs of nails would be my approximate sales, in a car lot. For instance, if Hibbard, Spencer & Bartlett—that is a wholesale house in Chicago—if their man comes along I get his prices, and the Simmons people come along, the traveling man, and the American Steel & Wire Company, I will ask their prices, or the Keystone Fence Company, of Peoria, I ask their prices, and the traveling man that I have been giving my orders to, he will drop in at a certain time—I have known him for years—and if he will meet any one of those prices I will give him the preference and give him the order, and have done that for ten straight years.

Q. You say that you buy fence in carload lots. What fence do you sell?

A. The American.

Q. How long have you been selling the American fence?

A. Since 1901.

Q. And have you been quoted on woven wire fence by other people?

A. From time to time I am; yes, sir.

Q. And how is the American fence, in price, as compared with competitive fences of the same weight?

A. It is a cheaper fence than other fences are, from the fact that it weighs more.

Q. What other fences are there sold in that market, competitive with the American fence, by other manufacturers?

A. My strongest competitor has been the Pittsburgh

fence. The other dealer in town has sold that, and he has also sold the Kokomo fence.

Q. Are there other towns in your neighborhood that sell in some of the country districts?

A. Yes; two and a half miles away they sell the Page fence, and sell the Youngstown fence; and seven miles away there is a county seat; they have got all kinds of fences there.

Q. Is the fence business a pretty active one in your section of the country?

A. It is just according to the way a man pushes his trade. I have made a specialty of the American field fence, and I have sold lots of that. That is, what I consider a lot of that.

Q. About how many carloads a year?

A. Four to five carloads.

Q. You retail out four to five carloads a year?

A. Yes; about 20,000 to 25,000 rods a year. A car holds about 5,000 rods. I have specialized on that fence.

Q. And the other people selling it specialize on their fences?

A. The Pittsburgh man did a couple of years.

Q. Do you sell poultry fence also?

A. Yes, sir.

Q. What poultry fence have you handled, or poultry netting—I suppose it is the same thing.

A. Netting; I don't know who makes it. I buy it from the Simmons Hardware Company or Hibbard, Spencer & Bartlett.

Q. About the fence, where do you get that?

A. The poultry fence I buy of the American Steel & Wire Company, at the present time, altogether.

Q. Have you ever bought it from anybody else?

A. Yes; for four years I have bought it from the American Steel & Wire Company, and before that time I bought it from the Keystone Fence Company and the Cyclone Fence Company.

Q. Have you had the Apex poultry fence?

A. Some of it.

Q. That is made in Janesville, isn't it?

A. I believe it is.

Q. How does the price of American poultry fence compare with that of other poultry fences that you can purchase in the market?

A. It is about the same in price, only the weight of it makes it a better fence. It is a heavier fence.

Q. How does it compare, based on the same weight of material?

A. It is cheaper.

Q. Mr. Walty, how does the price of woven wire fence compare with the price twelve years ago?

A. It is about 25 to 30 per cent. cheaper than it was twelve years ago.

Q. How does the price of nails compare with what it was twelve years ago?

A. I could not answer that question. My memory don't go back on that.

Q. Take the other things that you sell in your store and which you have mentioned: how do the prices of cutlery compare with twelve years ago?

A. Higher than they were twelve years ago.

Q. About how much?

A. I would judge 25 to 30 per cent.

Q. Can you give any examples of that?

A. I could give you—I could not give you the numbers, no; I could not do that. But take the Keen Kutter Cattle Knife—I forget the number of it. At one time we bought it for $6.50 a dozen. We are paying $8.00 a dozen now.

Q. How as to the prices of axes and hammers and hatchets and rakes?

A. It is about $3.00 a dozen higher on axes than it was ten years ago. I used to pay $7.50, $8.50 to $9.50 a dozen for axes, and to-day they run $11.00 to $12.00 a dozen.

Q. That is, with the handles in?

A. Yes; I buy all my axes with the handles in them.

Q. They are sold both ways?

A. Yes; but I buy them with the handles in the axes.

MR. DICKINSON: Do you say you buy them with handles in them?

THE WITNESS: Yes, sir. I buy some with hickory handles and some with oak handles.

By MR. SEVERANCE:

Q. Take hatchets.

A. About $2.00 difference, a dozen, in price.

Q. They are higher now than they were?

A. Yes, sir.

Q. And hammers?

A. About the same. That is, in the Keen Kutter line of goods, that we specialize on.

Q. Take plows; do you sell plows?

A. Yes, sir.

Q. Steel beam plows?

A. Yes; John Deere Manufacturing Company.

Q. How do the steel beam plows compare in price with what they were twelve years ago?

A. They will average ten to fifteen per cent. higher.

Q. How about stoves? Do you handle stoves?

A. Yes, sir.

Q. Cast iron stoves?

A. I judge 25 to 30 per cent. higher. I never went into the exact details of it, but the stove that used to cost me $18 costs me to-day about $25 or $26.

Q. The same stove?

A. Yes, sir.

Q. Made by the same maker?

A. Yes, sir.

Q. How is harness compared with what it was twelve years ago?

A. I was not in harness twelve years ago. I went in it ten years ago.

Q. Well, ten years ago?

A. That is quite a bit higher than it was then. I used to manufacture harness. I kept two men at work in that line, and I bought leather for 25 and 28 cents a pound ten years ago, and it went up to 36 cents, and I went out of business. I could buy harness ready made cheaper than I could make it.

Q. Take ready made harness; is it higher to-day than it was ten years ago?

A. A set of farm team harness, such as we use in our country, costs about 25 per cent. more than it did five years ago.

Q. How about buggies and wagons, farm wagons?

A. Farm wagons, in 1902, 1903, 1904, I could buy at $52 to $53 apiece, and to-day the same wagon is worth $72 apiece.

Q. How about buggies?

A. There is an average of about $20 apiece on buggies.

Q. Increase?

A. Yes, sir. I might add, too, there is some change in the buggy, especially in the seat, the finish in the seat. We used to have a common seat, and to-day we have twin seats and different things of that kind, but I have asked manufacturers what the cost of the different seats was——

MR. DICKINSON: That is objected to as hearsay.

By MR. SEVERANCE:

Q. From your knowledge of the business, what difference in price would you say there is, allowing for this improvement in seats?

MR. DICKINSON: That is objected to because he does not show that he has ever manufactured buggies, or is an expert and qualified to speak on that subject.

THE WITNESS: I did not aim to answer that so you would object to it at all.

By MR. SEVERANCE:

Q. You can answer it, if you are able to.

A. Not being in the manufacturing business, I really could not answer that question, but I would not judge over six or eight dollars in a buggy.

Q. How are paints, as compared with what they were? You say you deal in paints.

A. In 1900 to 1901 or 1902 I think I paid $1.15 for paints, and I pay $1.50 to-day; that is, Sherwin, Williams & Company.

Q. Do you sell ranges, kitchen ranges?

A. What you call steel ranges?

Q. Malleable ranges?

A. Yes, sir.

Q. What difference, if any, is there in the price of malleable ranges, eight or ten years ago and to-day?

A. About $6 apiece.

Q. They are higher now?

A. Yes, sir.

Q. How about shovels?

A. Well, we sell a great many dirt shovels there. We have the clay mines there, and they manufacture pottery ware. I used to pay $4.50 a dozen, and we are paying $6.00 a dozen now.

Q. For the same shovel?

A. Yes; the same brand of shovel.

Q. How about saws, hand saws?

A. Well, the Disston saws have advanced some.

Q. How much?

A. Perhaps $1.50.

Q. What were they; up to what point have they advanced?

A. If I remember right, a Disston 26-inch hand saw costs about $15.25 a dozen now. We used to buy them for $12.50 to $13.00 a dozen.

Q. Ten or twelve years ago?

A. Yes, sir.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Do not a good many manufacturers claim constantly improving quality for their goods?

A. They naturally make that claim in all lines; yes, sir.

Q. And in regard to a good many of the things you have mentioned that claim is made by them, is it not?

A. Yes; there are some changes made in some of these lines; yes, sir.

Q. Has there not been, in the last twelve years, that is to say, between 12 years ago and now, an improvement in the quality of the products generally?

A. Yes, sir.

Q. Do you know the relation of these prices in 1900 as compared with 1901 or 1902?

A. Some of them; yes, sir.

Q. Take these articles; was there any material change in that time?

A. In 1901?

Q. Between 1900 and 1901 or 1902.

A. They were about the same price.

Q. What you have been contrasting is the limits of the twelve years; that is to say, twelve years ago with now?

A. Yes, sir.

Q. You have been buying your nails from Mr. Hish?

A. Yes.

Q. And from no one else?

A. I think practically; only mail orders, or when the traveling men came along, and I would order from the Simmons Hardware Company or Hibbard, Spencer and Bartlett.

Q. If a traveling man would come along and you would need some, he would make you a price, and that would satisfy you?

A. I really would not ask him the price. I would just order them.

Q. Without asking the price?

A. Yes.

Q. In your dealing with Mr. Hish, when you made any deal with him, you did not take any bid from anybody else, did you?

A. I did not entertain any in particular; only enough to show I could buy my nails just as cheap from him.

Q. You kept generally posted from time to time from traveling men, on the market?

A. Yes.

Q. And you were satisfied that you were doing fairly well, I suppose?

A. Yes.

Q. And you liked him and he liked you?

A. I like the traveling men.

Q. But Mr. Hish's dealings with you had been satisfactory?

A. Yes; very satisfactory.

Q. And you never made any attempt to change to anyone else?

A. No, sir.

Q. You have been pushing the American fence?

A. Yes, sir.

Q. And I suppose you have been praising it to your customers, naturally?

A. All along; yes, sir.

Q. And dilating upon its good qualities as compared with others, so far as you believed they really existed?

A. It had the qualities.

Q. Some others thought the others had qualities, I suppose, too, did they not?

A. I suppose so.

Q. And tried to push them?

A. Yes.

Q. And you have been in competition with them?

A. Yes.

Q. And you have bought no other fence, have you, except from the American?

A. I have not bought in quantities; I have bought perhaps five hundred rods, or something like that—jumped in once in a while to see if I could get something else that was as good, or possibly a little better.

Q. But, substantially, you have been buying throughout this period the wire fence from the American?

A. Yes.

Q. That is to say, that is poultry fence, is it?

A. No, sir.

Q. You are buying from them altogether now?

A. I am the last three or four years; the last four years. Before that I did not buy any poultry fence of them whatever.

Q. About how much poultry fence do you buy a year?

A. Perhaps 1,500 rods.

Q. What would that amount to in money?

A. Close to $500 or $600.

Q. I suppose your American fence is much larger than that?

A. The American fence will run on an average of $800 to $900 a car.

Q. And about how many carloads a year do you buy?

A. Four to five.

REDIRECT EXAMINATION

By Mr. Severance:

Q. Has there been an improvement in the quality of the woven wire fence in the last twelve years?

A. Yes, sir.

Q. A very marked improvement, has there not?

A. Yes, sir.

Mr. Severance: That is all.

CHARLES T. WOODWARD

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Where do you live, Mr. Woodward?

A. Carlinville, Illinois.

Q. What is your business?

A. General hardware.

Q. How long have you been in the business?

A. Thirty years.

Q. Have you been at any time an officer of any association in your line of business?

A. Vice-president of the Illinois Retail Hardware Association for two years; president for two years; and I have been a member of the executive committee of the National Retail Hardware Dealers' Association for the past three years.

Q. How long have you been in the hardware business?

A. Thirty years.

Q. All the time at Carlinville?

A. Yes, sir.

Q. What branches of hardware do you sell?

A. We sell the general line of shelf hardware, stoves, wire fencing, nails and wires, the general wire products handled in a country store.

Q. How do you buy your wire fence? Do you buy it by the carload?

A. We buy it by the carload.

Q. What fence do you handle?

A. The American Steel & Wire Company's.

Q. How long have you been handling that fence?

A. I think probably ever since it has been made, but I could not say positively.

Q. You have bought it for the last twelve years, anyway?

A. Yes, sir.

Q. Have you had quotations from other manufacturers of fence?

A. Yes, sir.

Q. Frequently or otherwise?

A. We do not get the written quotations so frequently, but their salesmen call on me quite often, and show me their fence and give prices.

Q. And solicit your business?

A. And solicit our business; yes, sir.

Q What has been your experience as to the prices made by them for the same weight of fence as compared with the American fence?

A. I have always considered that I bought the American fence cheaper.

Q. Do you handle sheet iron?

A. Yes, sir.

Q. Where do you buy that? From the mills?

A. The corrugated galvanized sheets for roofing we buy from the mills sometimes, and sometimes from the jobber.

Q. What mills have you bought from?

A. From the Inland Steel Company, the Wheeling Corrugating Company; the Indianapolis Corrugating Company is a mill, but I do not know whether they manufacture the sheets or not. I have bought quite a good deal from the Simmons Hardware Company, a jobber.

Q. Have you ever bought any sheets from the American Sheet & Tin Plate Company?

A. No, sir.

Q. How do you buy your nails?

A. Years back I used to buy them in straight cars, but for the last—I should say eight or ten years—I have bought them in mixed cars. Where I would be ordering fence, and possibly I would order a straight carload of fence, then a part of a car and mix in nails, barbed wire and smooth wire with it; then, after that, for the balance of the year, unless I should buy another carload of fence during the middle of the season, I would buy the nails from the jobbers, small shipments.

Q. Have you had quotations made to you on nails and barbed wire and smooth wire by other parties than the American Steel & Wire Company?

A. Yes.

Q. How have those quotations been as compared with the American Steel & Wire Company, as to being uniform or varying?

A. They are varying.

Q. And how are they as to each other, as to being uniform or varying?

A. Varied.

Q Has that been the usual, ordinary thing?

A. Always; yes.

Q. How do you find the prices of woven wire fence during the last two years as compared with twelve years ago?

A. Cheaper.

Q. About how much cheaper?

A. Twenty-five per cent., possibly; if you take into consideration the weight, it has been made heavier the last three or four years, it is possibly some little more than that.

Q. How is the quality of the fence, compared with what it was ten or twelve years ago?

A. Why, I think the quality is about the same; possibly a little better; but I do not know that there is any particular change in the quality.

Q. Except in the weight?

A. Except in the weight.

Q. Is the heavier fence stronger than the old style?

A. Yes.

Q. What fence is there sold in your locality in competition with the American fence?

A. The Pittsburgh Electric Weld, and the Lamb is sold in Carlinville, and there have been other fences sold there, but I think those are the only two that are being sold there at present.

Q. Are there any other towns in the neighborhood that retail in the same territory with you?

A. Yes, quite a number.

Q. What fences are sold at these towns, if you know?

A. There is the Keystone fence, and the Page fence, the Pittsburgh, and also the American Steel & Wire Company's fence, and—oh, there are several of them; I can not remember the names of all the different fences.

Q. Is there rather large consumption of that kind of fence in your part of the country?

A. Yes.

Q. Increasing?

A. Yes. Crop conditions of course cut some figure with it just at present.

Q. What is your experience as to the prices you have to pay at the present time for other things that you handle in your store, such as shelf hardware and cutlery, rakes and hatchets and hammers, and so forth?

A. Well, the shelf hardware—I do not, to my recollection, see that there is a great advance on that. On shovels there is an advance, and on what I might term steel goods, which include hay forks and rakes, and so forth, there has been a considerable advance.

Q. How about stoves?

A. I should say about 33 1/3 per cent. advance.

Q. That is, cast iron stoves?

A. Yes.

Q. In the last ten or twelve years?

A. Yes.

Q. Is the Kokomo fence sold in your part of the country? I forgot to ask you.

A. It is sold around there; but at the present I do not think it is sold in Carlinville. They call on us regularly and solicit business for nails and other stuff as well.

MR. SEVERANCE: That is all.

CROSS EXAMINATION

By MR. DICKINSON:

Q. How much woven wire fence do you handle a year?

A. From two to four cars; sometimes there are some nails and wire mixed in probably two of those cars.

Q. You have been dealing altogether with the American Steel & Wire Company on fencing?

A. We have been dealing with the American Steel & Wire Company almost altogether; we have bought some little poultry fence outside of that, and field fence.

Q. Naturally that forms a rather important part of your trade?

A. Yes.

Q. And you have been pushing that, I suppose?

A. Yes.

Q. And building up a trade on that?

A. Yes.

Q. Then, in buying that, that naturally to some extent has determined your buying the other things to mix in and make up a carload lot?

A. Yes.

Q. Such as nails and barbed wire and plain wire?

A. Yes.

Q. How many nails do you handle a year?

A. I suppose I will probably handle between 400 and 500 kegs.

Q. Have you bought that altogether from the American Steel & Wire Company?

A. No, sir.

Q. What proportion have you bought from them?

A. Not to exceed 50 per cent., if that.

Q. Now, take this present year: what tonnage of nails have you bought?

A. I should say that I had bought—well, I think I have purchased at least 400 kegs this year.

Q. I am speaking of wire nails.

A. Yes.

Q. Were they bought under contract?

A. No, sir; the only nails—well, I do not know that you would call that a contract. When I gave them my specifications for my spring shipments, it was for two carloads of fence and nails and barbed wire, and so forth. There was a part of the car of fence and the balance these other products. I buy them in carloads. That is all I have bought of them.

Q. You have bought about 400 kegs this year?

A. Yes.

Q. From whom have you bought them?

A. I bought part of them, as I say, from the American Steel & Wire Company, and pretty near all the balance I bought from the Simmons Hardware Company of St. Louis.

Q. Do you know whom they were made by?

A. I have noticed on their kegs the American Steel & Wire Company's brand and the Pittsburgh brand, and Jones & Laughlin's brand.

Q. So altogether you have bought about half direct from the American Steel & Wire Company, and part of the other from Simmons was from that company—I mean of their product, you bought from Simmons?

A. Part of it, yes.

Q. You do not know what proportion that is?

A. No, sir.

Q. When you bought this one order, which was about half of 400 kegs, from the American Steel & Wire Company this year, was that under one purchase?

A. Yes.

Q. What time of the year was that?

A. I gave that order, as near as I can recollect, possibly in October or November of 1912, which was to be a spring shipment. You know, we buy in advance, give our specifications with March 1st dating, which would come with our cash discount off at that time.

Q. That order covered nails and wire fencing?

A. Yes.

Q. And some barbed wire?

A. Yes.

Q. And some smooth wire?

A. Yes.

Q. And that order was all given at one time?

A. Yes.

Q. How long had you negotiated with them, if at all, before giving that order?

A. Their salesman was ready for purchase, and I wrote him to come and see me—well, I would not say positively about that, or whether he just came in, and after he was in there it took me about ten minutes to buy.

Q. He gave you a price that was satisfactory to you?

A. He gave me a price that was satisfactory to me, and I gave him the order.

Q. And you had had no previous negotiations up to that time regarding that purchase?

A. Not with the American Steel & Wire Company.

Q. Had you with anybody regarding that purchase?

A. I had looked up prices—well, not particularly looked them up, but I had prices from their salesmen.

Q. You got prices generally?

A. I got prices generally, and kept an outline of how the market was.

Q. You never took any bid on that particular order?

A. No, sir.

Q. Is that so generally with your purchases?

A. In what line?

Q. In the lines we have just been speaking of.

A. In nails, not always so.

Q. Take where you ship nails and barbed wire and woven wire, and plain and smooth wire together; when you make that kind of a transaction, would the transaction be pretty much like you have described this?

A. Yes.

Q. How often do you purchase that way from the American Steel & Wire Company?

A. I have been doing business with them for the last twelve years.

Q. But every year you do not make your purchases in the way you have described?

A. Yes. I might state that on these local shipments I can buy the nails locally from the Simmons Hardware Company for less money than I can from the manufacturer—from a jobber for less money than I can from the manufacturer.

Q. I suppose that is because they are the largest concern, probably, in the country?

A. Their reason, I think, for it is that I give them a considerable amount of business, and they give me a cut price on this competitive stuff, such as they just sell at a very close margin.

Q. And you have bought some of your nails that way?

A. Quite a good many.

Q. And that cut price is an inducement for other purchases?

A. Yes.

Q. A sort of leader, is it?

A. Yes.

Q. What portion of your purchases a year are made that way, on nails?

A. On nails, I think fully half.

Q. Fully half are made that way?

A. Yes.

Q. When you make purchases that way you do not take any quotations on nails?

A. No written quotations.

Q. I mean to say, you are dealing with Simmons on general purchases, and that comes in on general transactions?

A. Yes; we keep in line on those prices with their salesmen, who are constantly calling, endeavoring to get business.

Q. When you make your purchases of that kind from Simmons, involving a number of things, on that particular purchase, on all those things you do not submit that whole list for somebody else to bid on, do you?

A. No, sir.

Q. And you do not submit to anybody to bid on any particular item in that list, where you make a general purchase from them?

A. No, sir; I depend on my own knowledge.

Q. Now, did you know what quotations you got, say in 1901, on wire nails, from any manufacturer?

A. No, sir.

Q. Then you do not know what relations they bore to each other now, do you, the prices that were furnished as far back as 1901?

A. Only the general varied prices, that there has always been in the nail market.

Q. You mean from time to time there would be variations, and sometimes there would be variations among people who were quoting?

A. When they were quoting there were always variations in prices.

Q. Do you mean to say, Mr. Woodward, that every time that you solicited quotations that you now know that on all of them there were variations?

A. That on every one of the quotations——

Q. On every one of those purchases?

A. There was always some variation.

Q. Do you state that as a fact; do you remember the fact?

A. I remember that to be a fact.

Q. Do you remember any instance where that was true that you recall the circumstances?

A. I could not go back, no, sir; that is just from general knowledge that one naturally has in mind in his business.

Q. That has been ten or twelve years ago?

A. Yes, sir.

Q. And you have had a great many transactions since then?

A. Yes, sir.

Q. You have had hundreds and hundreds of purchases, haven't you?

A. Yes, sir.

Q. Thousands?

A. Not in that particular line; in different lines.

Q. But I mean in all the things that have passed before you?

A. Yes, sir.

Q. And do you know how prices varied in any one of those years, or how many had the same price or on particular transactions whether or not some of them were alike or have you got any memory about that?

A. I could not give an absolute definite answer.

Q. Then you could not give anything positive about that, could you?

A. Only in a general way.

Q. It is a general idea more than anything else?

A. A general impression one has in his mind.

Q. And not anything that you can recall from memory?

A. Not anything I could give you exact figures on.

Q. Or any figures?

A. No, sir; not figures, I would not go into those.

Q. Do you know from whom you got quotations for nails in 1901?

A. No, sir.

Q. Or any of those years?

A. No, sir.

Q. I mean from 1901 down to 1912 inclusive?

A. Down to 1912?

Q. Your answer was you could not?

A. If you mean inclusive, I have got quotations from the Crawfordsville Wire Nail Company.

Q. What year are you speaking of?

A. I am talking of this year.

Q. I have excluded this year.

A. I will take it last year.

Q. Well, take last year; how many instances can you recall now where you carry in your mind the particular instance where you can give the bidders that quoted you prices on any proposed purchase of nails?

A. And the price?

Q. I am first asking you not giving the prices. I will come to that later.

A. Last year the Kokomo Steel & Wire Company at one time—several times, in fact—gave me prices when I was in the market for a small quantity, not carload quantities, and the Crawfordsville Wire Nail Company; they called on me also regularly, and quoted me prices.

Q. Were they in small quantities?

A. Yes, but I could always do better, as I have told you, in the last two or three years, with the Simmons Hardware Company.

Q. And you bought from them in the way you have described?

A. Yes, sir.

Q. During the years back of 1910 have you any recollection as to how many prices were alike, and how many were unlike, or how they varied?

A. No, I could not give you as to how many were alike, or how many were unlike, but I do know, that is, I know it, because it is in my mind that way, that there was generally a variance of five to ten cents a hundred.

Q. Now, Mr. Woodward, I will ask you is it not a fact known to everybody that has been in your line of business in the last twelve years that upon nails there have been periods throughout that time when the manufacturers quoted the same price generally to the trade?

A. No, sir.

Q. You do not know that to be a fact?

A. I do not know that to be a fact; no, sir.

Q. You cannot, however, give in any one of those years back of 1910 a list of people that you solicited quotations from on carload lots, other than the American Steel & Wire Company?

A. No, sir.

Q. Well, now, can you name any one in any of those years that you solicited quotations from on carload lots of nails other than the American Steel & Wire Company?

A. No, sir; because I have not bought any straight carload of nails during that time.

MR. DICKINSON: That is all.

MR. SEVERANCE: That is all.

J. LEONARD REPLOGLE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Replogle, what is your business?

A. Vice-president and general manager of sales of the Cambria Steel Company.

Q. How long have you been connected with the Cambria Steel Company?

A. Twenty-five years.

Q. Will you state in what capacities you have been connected with that company?

A. Well, first as office boy about 25 years ago, and in various capacities, shipper, inspector, superintendent of forge, axle and bolt department, in which capacity I had charge of the manufacture and sale of our products.

Q. What is the product in that department you sold?

A. Car axles, locomotive forgings, bolts and nuts.

Q. How long ago did you become superintendent of that?

A. I was superintendent of that in 1899.

Q. All right.

A. I was later transferred to the office of the assistant general manager, and afterwards superintendent of orders, and then assistant general manager; later assistant to the

president, and September of last year elected vice-president and general manager of sales.

Q. When you were assistant to the president what were your duties?

A. My duties were the purchase of our raw materials, including coke, metal, scrap, ferro manganese, spiegel, and the sale of steel cars and rails—the railroad end of our sales.

Q. When you were assistant to the general manager what were your duties?

A. As assistant to the general manager we had certain operating duties, and more particularly in charge of the railroad end of our sales also, and certain operating duties in connection with it.

Q. As I understand it, you went into the sales end of this business more or less as far back as 1899?

A. Yes, sir.

Q. And have you been pretty closely identified with that end of the business practically all the time since?

A. I have.

Q. Have you been in touch with it?

A. Yes.

Q. You have been general manager of sales since last year?

A. Yes. Part of that time the sales of products other than the railroad end were handled by Mr. Krebs, who was general manager of sales. I had the railroad end prior to that, you understand.

Q. And to what extent were you in touch with the sale of the products other than railroad products?

A. As superintendent of orders and as assistant general manager, the general manager of sales submitted to us practically all details of any magnitude, and it was discussed quite frequently, the desirability of the business, and I was in very close touch with it generally.

Q. Always have been?

A. Ever since 1899.

Q. Ever since 1899; that is what I mean?

A. Yes, sir.

Q. Has the Cambria Steel Company increased its capacity in the last twelve years?

A. It has.

Q. Can you give approximately what that increase has been?

A. Our product in 1901 was approximately 460,000 tons. Last year we finished and shipped 1,038,000 tons. This year we will ship even more.

MR. COLTON: Finished products?

THE WITNESS: Finished products.

By MR. SEVERANCE:

Q. What does the plant consist of at the present time?

A. We have eight blast furnaces, 28 open hearth furnaces, four Bessemer converters, 19 finishing mills, about 12 shops, 4 Gautier shops, in which we manufacture largely agricultural implement specialties, automobile rims and special material of that kind. Besides, I have not included our wire plant, which is practically new.

Q. What about car shops? You did not speak of them.

A. We produce 48 steel cars a day.

Q. How much has that physical plant increased in the last twelve years; say twelve years ago, how many blast furnaces did you have?

A. We had six.

Q. How many open hearth furnaces?

A. Twelve years ago we were just starting in the open hearth steel, a short time prior to that, and I think we only had about six in 1901.

Q. You now have 28?

A. Yes, sir.

Q. How many Bessemer converters did you have? The same number?

A. The same number as at present.

Q. About these nineteen finishing mills: How many of them have been built in the meantime?

A. We have built about eight of those since that time.

Q. When were your car shops built?

A. In 1901.

Q. When was this Gautier shop built?

A That was originally a Brooklyn plant, moved to Johnstown in—I do not know the exact date, but it was prior to 1901, I know.

Q. Has it been enlarged or changed?

A. It has been very materially enlarged.

Q. Then have you a structural shop?

A. A fabricating shop, yes, sir.

Q. When was that built?

A. About 1903, if I remember right.

MR. COLTON: What was that answer? Did you say a fabricating structural shop?

THE WITNESS: A fabricating structural shop.

By MR. SEVERANCE:

Q. What kind of steel do you roll? I do not mean as between open hearth and Bessemer, but the different products?

A. Steel rails, all kinds of structural steel, angles, beams, channels, Zs and Ts, merchant bars, plates, universal and sheared, special sections of various kinds, including, as I say, automobile rims and brake beam sections, and various special sections of that kind.

Q. Do you sell any blooms and billets in the market?

A. We do.

Q. Is that a continuous business with you?

A. It is.

Q. You have already stated that you make cars; do you make any axles?

A. We do.

Q. Car axles?

A. Car axles, yes, sir; and locomotive forgings.

Q. Do you make any car wheels?

A. We do not.

Q. You buy your wheels, do you?

A. We buy our wheels, yes, sir.

Q. Taking up these various products in their order, I will ask you first how long you have been active in the steel car business. You said your plant was built in 1901. Did you begin operations then?

A. At that time, yes. We produced our first cars early in 1901.

Q. Where do you get your steel that you use in making cars —I mean, the ordinary body of the car?

A. We make all the steel, practically, that enters into the construction of a car, including the plates and the structural shapes, the axles, bolts, rivets, and all the forgings. The only things we buy are the specialties, such as wheels, brake beams, draft gear, journal boxes and material of that kind.

Q. But the bulk of the steel, then, that goes into the car, is manufactured by you on the premises there, is it?

A. Yes, sir.

Q. What other companies are there in competition with the Cambria Steel Company in the manufacture and sale of steel cars?

A. The principal manufacturers are the American Car & Foundry Company, the Standard Steel Car Company, the Pressed Steel Car Company, the Ralston Steel Car Company, the Barney & Smith Car Company, Haskell & Barker Car Manufacturing Company, the Mt. Vernon Car Manufacturing Company; that is about the list of them.

Q. How about the Pullman Company?

A. And the Pullman Company.

Q. They manufacture for the trade, do they not—for railroads?

A. Yes, sir; both freight and passenger.

Q. How do these different manufacturers compare in their output?

A. The largest is the American Car & Foundry Company; the others follow, I should say, in about this order: Standard Steel Car; Pressed Steel Car; Pullman and Haskell & Barker and Cambria are about next, I should say.

Q. Barney & Smith are smaller?

A. They are smaller.

Q. And Ralston is smaller?

A. Ralston is smaller.

Q. And Mt. Vernon is smaller?

A. Mt. Vernon is smaller.

Q. You said that you had made 48 cars in a day, or did you say that was your regular output?

A. Our output is from 46 to 48 cars a day.

Q. Does that mean six days in the week?

A. Yes, sir.

Q. What has been the increase, if any, in your output of cars?

A. We originally started making eight or ten cars a day and gradually increased our output up to this 48 cars a day. We got that first about two years ago, since which time we have been running at approximately that rate.

Q. What was your output two years ago?

A. You mean our rate per day?

Q. Yes; in 1911. What was your rate per day two years ago?

A. Our capacity was the same then as it is now.

Q. Oh, it was the same?

A. Yes; 46 to 48 cars a day. There are different types.

Q. When did you enlarge your works to have the capacity that you are at present enjoying?

A. About three or four years ago. There has been a gradual increase from 1901.

Q. And three or four years ago you were equipped to make that many, if there was a market for them?

A. Yes.

Q. Your sales, I suppose, depend on the market for cars?

A. Yes, sir; absolutely.

Q. How about steel cars sold to railroads?

A. The railroads usually prepare plans and specifications and submit to each of the builders, and our estimating engineer will prepare an estimate of the cost, and after getting the price of the outside specialties which we have to buy, which the specifications call for, we make our proposition based on that estimate.

Q. Is it customary for the railroad to receive competitive bids on cars?

A. Always; entirely so. There are some cases, I believe, where the cars have been placed without competition.

Q. In your competition for that business, which, if any, of these other manufacturers do you meet? That is, whose competition do you meet?

A. Practically all of them. Well, I was going to say, the smaller manufacturers in the west do not enter into the competition in the east to any great extent, because they have disadvantages which they can not overcome.

Q. Which are the companies that you refer to when you speak of smaller manufacturers in the west?

A. Well, the Mount Vernon, although they come in on certain of the eastern railroads, but generally speaking, we do not feel their competition so much as we do the three larger companies which I first named.

Q. Does the Cambria Steel Company sell to any of these other makers at times?

A. Yes, we sell to the Ralston Steel Car Company.

Q. Where are they located, by the way?

A. Columbus, Ohio. The Ralston, and the American Car & Foundry, the Standard Steel Car Company, the Pressed Steel Car Company, to a limited extent. That is about the list; and some to the Pullman.

Q. Has that practice of selling to these various competitors existed all the time you have been in the business, more or less?

A. It has, with the exception of the Ralston. They have just commenced to buy from us in the last three or four years.

Q. What railroads have you built cars for?

A. The Pennsylvania, a very large number; and the Baltimore & Ohio; the Lehigh Valley; the Central Railroad of New Jersey; the Philadelphia & Reading; the Chicago, Burlington & Quincy; the Cincinnati, Hamilton & Dayton; the Rio Grande Western, and the Harriman Lines.

Q. The Rio Grande Western; do you mean the Denver & Rio Grande? Which one do you mean?

A. The Rio Grande Western. It is now absorbed, as I understand it.

Q. You have not built any for the Rio Grande proper?

A. No.

Q. The Harriman Lines, you say?

A. The Harriman Lines, and the Chicago & Alton, and the Great Northern.

Q. Have you built any for any of the southern roads?

A. The Southern Railway. Those are the principal ones.

Q. Have you built any for the Northern Pacific?

A. Yes, we built some ore cars for the Northern Pacific.

Q. Have you built any for the Chicago & North Western or the Chicago, Milwaukee & St. Paul?

A. No, sir.

Q. Have you built any for the Chicago & Great Western?

A. No, sir.

Q. For the Illinois Central?

A. Yes.

Q. The Louisville & Nashville?

A. No, sir.

Q. The Seaboard?

A. No.

Q. The Atlantic Coast Line?

A. No.

Q. The New York Central?

A. No.

Q. None of the Vanderbilt lines?

A. None of them.

Q. You say you manufacture axles?

A. We do.

Q. Do you use your own axles, as a rule, for your cars?

A. In practically every case.

Q. In addition to that, do you sell axles in the market?

A. We do.

Q. Who are your competitors in the axle business,—locomotive and car axles?

A. Our principal competitors are the Carnegie Steel and the Pollak Steel Company; the Pittsburgh Forge & Iron Company; Willard Sons & Bell, Chicago; the Standard Forgings Company, and J. R. Johnson & Company.

Q. Where are J. R. Johnson & Company located?

A. Richmond, Virginia.

Q. Go ahead.

A. And the Gould Coupler Company, up in Depew, New York.

Q. Up near Buffalo?

A. Up near Buffalo. That is about all.

Q. Are there any plants that manufacture locomotive axles that do not make car axles?

A. Yes; the Bethlehem Company; the Midvale Steel Company, and the Standard Steel Works; that is about all I can recollect.

Q. Do the Carbon Steel Company make any?

A. The Carbon Steel Company, yes.

Q. And the Otis?

A. Otis, yes; and the Cleveland City Forge & Iron Company.

Q. How are those axles sold? Are they sold on competitive bids or otherwise?

A. Competitive bids.

Q. Has that been an active competition or otherwise?

A. Very severe.

Q. And has it at any time been restrained by agreements between the manufacturers in any way, so far as you know?

A. Not to my knowledge.

Q. Has the Cambria Steel Company, to your knowledge, been a party to any understanding or agreement with any of its competitors relative to the price it should charge for axles?

A. Absolutely not.

Q. Has its independence of action, to the best of your knowledge, been limited at any time by any understandings or agreements with competitors?

A. It has not.

Q. In what part of the country do you sell locomotive and car axles?

A. Throughout the entire United States.

Q. Who are your customers? I do not mean the individuals, but what class of consumers?

A. Well, we sell to a very large percentage of the railroads and to the car companies, and in light forgings, to the

locomotive companies, the American Locomotive Company and Baldwin, principally.

Q. How does your output or capacity compare with that of the Carnegie Steel Company in that line?

A. In axles?

Q. Yes.

A. We are very much smaller. Their capacity is probably —oh, five times that of ours.

Q. How does your capacity compare with that of Pollak?

Mr. Colton: I object to the witness testifying about the capacities of these companies, it not being shown that he has personal knowledge as to their respective capacities.

The Witness: The Pollak output is, I believe, larger than ours.

By Mr. Severance:

Q. How is that of Willard Sons & Bell?

A. About the same, I should say.

Mr. Dickinson: You mean the same as that of Pollak or yours?

The Witness: About the same as ours.

By Mr. Severance:

Q. And the Standard?

A. Their production in car axles is greater. I do not think it is as great in locomotive forgings.

Q. When was this J. R. Johnson Company established, if you know?

A. I do not know. It is a very old concern—for many years.

Q. Do you know anything about their output or capacity?

A. I have been through their plant a good many times and I have a general idea. It is very much smaller than ours.

Q. You could not make an estimate of the number?

A. I don't think I am competent to say that.

Q. What about the Gould Coupler Company at Depew; have you ever been to that plant?

A. No, I have never been through their plant. I do not know what their output is.

Q. Have you ever visited the Carnegie plant?

A. Very frequently.

Q. The Pollak?

A. Yes, sir.

Q. Willard Sons & Bell?

A. Yes.

Q. Standard Steel Forging?

A. No, sir.

Q. Pittsurgh Forge & Iron Company?

A. Frequently.

Q. How large is that company as compared with you in its output?

A. In this particular line it is about the same I should say.

Q. How is the Bethlehem's output compared with yours in locomotive axles?

A. Locomotive forgings, I think it is about the same.

Q. And the Midvale?

A. I think less than ours.

Q. Carbon Steel?

A. Less than ours.

Q. Otis?

A. Less; that is my opinion.

Q. You have visited those plants?

A. I have visited those plants; yes, sir.

(Whereupon an adjournment was taken until to-morrow, Thursday, December 11, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-EIGHTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Thursday, December 11, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. SEVERANCE and MR. BOLLING.

J. LEONARD REPLOGLE,

the witness under examination at the taking of adjournment, resumed the stand.

DIRECT EXAMINATION (Continued)

By MR. SEVERANCE:

Q. On the matter of steel cars, you say you have had charge of the sale of those for how long?

A. Since January 1st, 1910.

Q. I think you said those were usually sold or manufactured on competitive bids?

A. Yes.

Q. How big a spread have you known there to be between the bids of different makers?

A. As high as $80 per car I know, and I think as high as $100, but I know of a case of at least $80.

Q. You testified that you did not make car wheels?

A. We do not.

Q. Do you buy car wheels?

A. We buy car wheels, yes.

Q. How long have you been connected with the purchase of car wheels?

A. Well, in a general way since 1910, although you under-

stand that is done by our purchasing agent, the actual purchase of the wheels, although he informs me right along as to the price, and I have personally secured a great many of the prices on the wheels.

Q. A great many of the quotations?

A. Many.

Q. Have the quotations that have come to your notice been uniform or varying?

A. Varying prices usually, although there are occasionally one or two very close together, but they are almost always varying.

Q. Do you buy your wheels on competitive bids?

A. We do.

Q. From what different companies have you bought wheels?

MR. DICKINSON: Since what period is he giving his knowledge?

MR. SEVERANCE: Since 1910.

THE WITNESS: You are referring to steel wheels?

MR. SEVERANCE: Yes, steel wheels.

THE WITNESS: We purchase steel wheels from the Forged Steel Wheel Company, which is a subsidiary of the Standard Steel Car Company, from the Carnegie Company and the Standard Steel Works, which is subsidiary to the Baldwin; and the Midvale. The iron wheels we buy from the American Car Foundry and the Buffalo Car Wheel Company, the National Car Wheel Company, the Baltimore Car Wheel Company, and a number of others.

By MR. SEVERANCE:

Q. What is the difference ordinarily between iron and steel wheels.

A. Iron wheels are approximately half the cost of steel.

Q. On what class of equipment do you use steel wheels?

A. Steel wheels are used on the larger capacity cars, 100 capacity exclusively. They are not used on the lighter capacity cars.

Q. You only use them on the 50 ton cars?

A. On the 50 ton cars.

Q. What percentage of your output of cars consists of 50 ton cars?

A. 50 tons and heavier?

Q. What percentage of your output of cars is embraced in the 50 ton and heavier class?

A. At least 90 per cent.

Q. Then on the bulk of your cars you use steel wheels?

A. No; on some of the 50 ton cars some of the railroads use cast iron wheels.

Q. I misunderstood your answer. On what percentage of your cars do you use steel wheels and on what percentage iron wheels, if you can tell?

A. The total number?

Q. Yes.

A. Probably 50 per cent. steel and 50 per cent. cast iron.

Q. On what class of material, outside of axles, do you come in competition with the subsidiaries of the United States Steel Corporation?

A. Well, on structural shapes, which include angles, beams, channels, Zs and Ts.

Q. Which subsidiaries of the Corporation?

A. The Carnegie Steel Company and the Illinois Steel Company.

Q. Go ahead.

A. On plates, universal and sheared plates, the same companies. On rails, Carnegie and Illinois also, and by the way, Tennessee Coal & Iron on rails. On bars, Carnegie and Illinois. That is all, I believe.

Q. What about Duquesne joints?

A. On rail joints, with the Carnegie Steel Company, patented joints.

Q. Did you mention shapes?

A. Yes, sir; I mentioned shapes.

Q. Would that include automobile shapes?

A. We also compete with Carnegie on automobile shapes and various special sections.

Q. Concrete bars?

A. Reinforcing bars; yes, sir.

Q. How about blooms and billets? Did you mention them?

A. Blooms and billets, with Carnegie and Illinois.

Q. And what about sheet bars?

A. Sheet bars the same.

Q. Do you manufacture any steel piling?

A. Yes, sir. We compete with Carnegie. You only want the Corporation plants?

Q. That is what I was asking you, at the present time, yes. How long have you had the sale of rails in your charge?

A. Since January 1, 1910.

Q. When you took charge of that business, what price did you find prevailing, if any, on standard specification rails?

A. The price most generally quoted was $28 a ton on Bessemer and $30 on open hearth.

Q. Have there been any different prices at which rails have been sold since that time? If so, what class of rails?

A. There have been frequent cases of higher prices, as, for instance, we get $30.55 a ton from the Pennsylvania Railroad, and we get a small extra from the Baltimore & Ohio and a number of railroads that specify certain refinements which necessitate heavier discards from the ingots.

Q. How did you get at that price that you receive from the Pennsylvania Railroad?

A. We had quoted—they had submitted a specification to us which necessitated a heavier discard from the ingots than the average rail, and we submitted a price which I remember was $32 a ton, and we were later offered a portion of their business at the price of $30.55.

Q. $31.55 you mean, don't you?

A. No, $30.55. Just how they arrived at that I don't know. We protested, as being too low a price, but we had to take it or leave it at that price.

Q. Have you shipped any rails to the western roads?

A. A great many; possibly 100,000 tons last year.

Q. What different roads?

A. Great Northern; Northern Pacific; Chicago, Rock Island & Pacific; Chicago & North Western; Illinois Central; Chicago, Indianapolis & Louisville; Harriman Lines; Santa Fe. That is about the list, as far as I can remember.

Q. You say about 100,000 tons to all these roads put together?

A. Yes.

Q. What is the biggest tonnage to any one road?

A. My recollection is: 20,000 to the Hill road, the Great Northern.

Q. What price did you sell those rails at, f. o. b. mill, or were they different specifications?

A. They were different specifications. The price varied somewhat for open hearth rails, and they were practically all open hearth rails. We got a price of $30 at our works.

Q. $30 flat?

A. $30 flat.

Q. And the railroads paid the freight?

A. I think in one or two cases it was a little higher than that, owing to refinements in specifications.

Q. What price was the Illinois Steel Company, for instance, or the Colorado Fuel & Iron, charging at that time f. o. b. their mills on open hearth rails, if you know?

A. My recollection is that it was about $30 at their respective plants.

Q. How were you able to sell any rails, then, to railroads in the west, if you had to pay the freight on them from Johnstown west in competition with these other mills that were charging the same price in the west, if you know?

A. There has been in the past few years a considerable agitation among the railroads and the steel manufacturers on account of the heavy breakage of rails, and the railroads were making a thorough study of the matter, and we felt it was an opportune time to try to convince them of the superiority of our product, and we succeeded in getting a heavy tonnage at a considerable penalty in price to the railroads, more or less on account of their desire to try all of the various makes of rails.

Q. How long since you took entire charge of the selling?

A. Since July of 1912.

Q. You became the general manger of sales, I think, the 1st of September, 1912?

A. Yes.

Q. What was your position between July and September?

A. Assistant to the president.

Q. You had charge of sales?

A. I had charge of sales; yes, sir.

Q. During that time what has been the situation as between you and your company and the Carnegie Company as to whether the business has been competitive or otherwise?

A. At all times competitive.

Q. Have you had any agreements with the Carnegie Company or with any other of the subsidiaries of the Corporation, or with the Corporation itself, by which you agreed to quote the same price on anything?

A. None.

Q. Now, previous to July, 1912, who was in charge of your sales outside of the particular things that you said were in your charge?

A. Mr. Fred Krebs was the general manager of sales.

Q. And is he any longer in the employ of the company?

A. No, sir; he left our company in about August, 1912.

Q. You stated yesterday that you had previously been more or less in touch with the selling department generally through the position that you held as assistant to the president or assistant to the general manager; I don't remember which.

A. Both.

Q. In what way did you come in touch with the selling?

A. In a general way only. Mr. Price, who was vice-president and general manager, and later president of our company, had a conference almost daily, which included the general superintendent, Mr. Wolle, and Mr. Krebs, our general manager of sales, and myself, and at those conferences prices were generally discussed and the advisability of accepting certain business which was frequently offered to us, and there was a pretty general discussion on all of the products at that time. Mr. Price was in very close touch with the matter at all times, and believed in a pretty general discussion with his staff on those matters.

Q. Over what period did that continue, that is, when you

were personally in touch with the matter to that extent?

A. About five years prior to Mr. Price's retirement.

MR. DICKINSON: Will you give the date?

THE WITNESS: That commenced, I should say in 1906 or 1907.

By MR. SEVERANCE:

Q. You said there would be submitted to your conference the propriety of accepting certain tonnage offered; what do you mean by that exactly?

A. Well, there were occasionally offers made to us by our customers on tonnage of billets and blooms, and occasionally shapes and plates, a pretty large tonnage by some of the larger consumers, occasionally at such a price that it demanded pretty thorough study on our part as to the question of the propriety of our accepting on the basis offered.

Q. That would be brought up and discussed at your meetings?

A. Yes.

Q. That was the occasion?

A. Yes.

Q. You did not come into immediate contact with the purchases then?

A. Only occasionally.

Q. What other companies are there that have been competing with you for the last several years principally outside of the subsidiaries of the Steel Corporation on structural shapes?

A. Well, Jones & Laughlin, Lackawanna, Inland, Eastern, the Phoenix and the Bethlehem.

Q. And the Republic?

A. The Republic in a small way on shapes. Those are about the principal ones. The ones I have mentioned, with the exception of the Republic, in answer to your question.

Q. I will ask you the same question as to plates.

A. Jones & Laughlin, Lackawanna, Lukens, Worth, Carbon, Otis and Portsmouth; those are the principal ones.

Q. Do you meet with the competition of the others that you do not denominate the principal ones?

A. Yes, the Allegheny Steel Company.

Q. What about the Republic?

A. To a more limited extent.

Q. What about the La Belle Iron Works?

A. The La Belle Iron Works; that is one of the principal ones.

Q. You would put that in the first class?

A. Yes.

Q. And in blooms and billets who are your competitors outside of the subsidiaries of the Steel Corporation?

A. The Bethlehem Steel, the Pennsylvania, the Alan Wood Company, Jones & Laughlin, Lackawanna, Portsmouth, Andrews Steel Company. That is about the principal list, I should say.

Q. You did not mention the Alan Wood Company as in the plate business. Are they not in the plate business?

A. I think not.

Q. What do they make—that is, that comes in competition with you?

A. More particularly blooms and billets.

Q. Does the Inland Steel make blooms and billets?

A. To a limited extent.

Q. The Eastern?

A. Not to my recollection.

Q. The Phoenix?

A. I think not; possibly in a small way.

Q. Does the Youngstown Sheet & Tube Company ever sell billets and blooms?

A. Yes; I forgot to mention them. They are one of the leading competitors.

Q. In what?

A. In billets particularly; billets and sheet bars.

Q. I was going to ask you about sheet bars next. Who are your leading competitors in sheet bars?

A. In sheet bars, the Youngstown Sheet & Tube Company——

Mr. Colton: This is outside of the Corporation still?

MR. SEVERANCE: In all cases I mean outside of the Corporation's subsidiaries.

THE WITNESS: The Youngstown Sheet & Tube, the Lackawanna, Jones & Laughlin, the Republic, the Inland; those are the principal ones.

By MR. SEVERANCE:

Q. What about the La Belle?

A. The La Belle, yes; they are a very strong competitor.

Q. You would put them as one of the principal ones?

A. Yes.

Q. Do the Andrews people make sheet bars?

A. Yes; they make sheet bars.

Q. Do you meet their competition?

A. Yes, sir.

Q. You also spoke of steel piling as one of your products. Who are your competitors in steel piling?

A. The Lackawanna Steel Company and Jones & Laughlin are the principal ones outside of the Corporation.

Q. On merchant bars who are your principal competitors—in all cases I mean outside of the Corporation?

A. Jones & Laughlin and Inland are the principal ones.

Q. Does the Bethlehem make merchant bars?

A. They make some special forging bars. They are usually of alloy steels, or special steels. They do not enter into the common bar business to any great extent.

Q. How about the Crucible Steel; do they make bars?

A. They make quite a heavy tonnage of bars; they are one of the principal competitors.

Q. You mentioned automobile shapes. Who are your competitors in that line outside of the Corporation?

A. The Republic, the United Steel Company and Jones & Laughlin some, and I believe Lackawanna some.

Q. On concrete bars?

A. On concrete bars the Lackawanna, Jones & Laughlin, Inland, the Republic and a large number of the so-called re-rolling mills.

Q. Who are they? Can you name some of them?

A. The Franklin Steel Works is the principal one, and the Sweet Steel Company——

Q. Where are they located?

A. Williamsport, Pennsylvania.

Q. Do you know of a concern called the Corrugated Bar Company of St. Louis?

A. I do. They are very heavy competitors. They do not roll, as I understand it, any of the material themselves, but they purchase from the Lackawanna and Jones & Laughlin. They do sell the products, having a special patented bar, a deformed bar, and they have a very heavy sale.

Q. Who do you say makes the bars for them?

A. The Lackawanna Steel Company and Jones & Laughlin.

Q. Do you know of a concern called the Concrete Steel Company?

A. I do.

Q. Who are they?

A. They are located at 32 Broadway; Mr. J. F. Havemeyer is president. They have a fairly heavy tonnage of their bar, which is a patented deformed bar.

Q. Who does their rolling?

A. The Carnegie Steel Company rolls a very heavy tonnage for them.

Q. Mr. Halstead calls my attention to a concern called the Wemlinger Steel Piling Company. Do you know of them?

A. Yes; we roll, I think, all of their piling.

Q. Is that sold in competition with the steel piling you have mentioned, made by you and these other concerns?

A. That is what I referred to, that we roll all of Wemlinger's tonnage; and of course assist him in the sale, where it is possible for us to do so.

Q. Take the matter of wire and nails and wire rods in general; what do you make?

A. We make wire rods, fencing, barbed wire, poultry netting, nails—the general line of wire products.

Q. How long have you been in that business?

A. About three years.

Q. Are you in it pretty strong now; have you a large plant?

A. We have quite a large plant. We have a capacity of about 12,000 tons per month.

Q. Is that business highly competitive or otherwise?

A. Always competitive; very severe competition.

Q. Can you name some of your competitors?

A. The Youngstown Sheet & Tube Company, Jones & Laughlin, the Wright Wire Company, the Colorado Fuel & Iron Company, the Pittsburgh Steel Company.

MR. COLTON: This is still outside of the Corporation?

By MR. SEVERANCE:

Q. I suppose the American Steel & Wire Company also?

A. Yes. I thought you were referring to those outside of the Corporation.

Q. Yes; I was.

A. Those are the principal ones.

Q. What about Wickwire Brothers?

A. Yes.

Q. Is that a strong concern?

A. Yes.

Q. What about the Grand Crossing Tack Company?

A. We do not come in competition with the Grand Crossing people very frequently.

Q. How about the Ashland Steel?

A. Occasionally.

Q. The Spencer Wire Company?

A. Occasionally.

Q. The Kokomo?

A. Quite frequently.

Q. The Atlanta Steel Company?

A. Yes.

Q. Where do you meet their competition?

A. Almost entirely in the southern district.

Q. Are they pretty active?

A. Yes, sir.

Q. How about the Southern Steel Company?

A. Not to any great extent.

CROSS EXAMINATION

By Mr. Colton:

Q. I want to get an idea of just your connection with the selling department; as I understand it, from 1899 you have been in charge of the sales of forgings and axles for your company?

A. That is correct.

Q. Then, as regards the sale of rails, plates, structural shapes and bars, and in fact, products other than forgings and axles, you do not know where the price originated for these different articles during the period of 1899 to 1910?

Mr. Severance: That is objected to as not cross examination.

The Witness: I do not.

Mr. Severance: By "the price" you mean the price that Cambria charged, don't you?

Mr. Colton: Yes.

By Mr. Colton:

Q. That you cannot tell whether the prices that were fixed by the Cambria during that time were for a part or the whole of that time fixed as a result of agreements in such pools as may have existed during that period, concerning which pools you know nothing, or as a result of such meetings or committee meetings as may have been held during that period, concerning which meetings or committee meetings you know nothing; is that correct?

A. I know nothing about that.

Q. For the period in question, and for the products other than forgings and axles, you do not know what officer in your company, of your own knowledge, fixed the prices for the different commodities, so far as your company was concerned, do you?

A. I do not.

Q. You began to have something to do with the sale of rails in 1910?

A. January, 1910.

Q. What superior officers did you consult in regard to the sale of rails during 1910?

A. Almost entirely with Mr. C. S. Price, who was vice-president.

Q. Did you confer with him in regard to the placing of the larger contracts?

A. To a limited extent.

Q. Did you receive from him the price of $28 for standard sections, to begin with?

A. I do not recollect Mr. Price ever giving me any instructions as regards the price of rails. Rails were selling at $28 to $30 a ton when the matter was turned over to me, and we continued about on that basis, in some cases getting a little higher, as I say, for special refinements.

Q. So far as your company was concerned, when you took charge of the sale of rails to the extent that you took charge in 1910, the price for standard Bessemer rails was $28, was it?

A. That is correct.

Q. And the price for open hearth, without any special refinements, was $30; is that correct?

A. Yes, sir.

Q. Has that continued to be the case up to the present time?

A. I think the prices are gradually getting away from that price; in other words, there are more frequent cases where we are getting above $30 a ton.

Q. But that is in case of refinements, isn't it, of one kind and another?

A. Yes, sir.

Q. What my question was intended to be was, for standard Bessemer rails it is still $28 a ton?

A. Yes, sir.

Q. And for open hearth rails without any special refinements it is still $30 a ton?

A. We so consider it.

Q. You were asked this question, I think, for the period beginning January 1, 1910, in respect to rails:

"Q. Did you have any agreement about price of rails?"

And you answered: "A. No." You were speaking for yourself, were you not?

A. I was.

MR. SEVERANCE: What do you mean; for yourself or the company?

MR. DICKINSON: That is what we want to know.

THE WITNESS: I was in charge of the sale of rails. If any one else had any agreement it was not transmitted to me; I had charge of the sale of the product.

By MR. COLTON:

Q. And you only conferred with your superior officers in the way you have testified?

A. Yes, sir.

Q. What tonnage of rails did your company manufacture in 1901?

A. I do not remember.

Q. You could not state that approximately?

A. My estimate would be about 200,000 tons; 200,000 to 250,000.

Q. What was your capacity in 1901 in rails?

A. About 300,000.

Q. Was that capacity increased at any time between 1901 and the present time?

A. No, sir; it was not.

Q. Then the capacity of your company has remained about 300,000 tons?

A. So far as rails are concerned; yes, sir.

Q. And you manufacture chiefly standard rails, do you not? I mean railroad rails of standard weights.

A. We also make light rails, from 8 pounds to as high as 150 pounds per yard. I want to correct that just a little. When I say we make light rails, we make rails from 8 pounds to 150 pounds per yard. I would not want to include 150 pounds with the light rail.

Q. In 1901, do you have any accurate idea of the percentage that was light rails and the percentage that was standard rails for that year, made by your company?

A. No accurate idea, but I should say the proportion would be about the same.

Q. That you made about as many light as heavy?

A. No; I thought you asked me before; about 90 per cent. of our tonnage is heavy, and about 10 per cent. light.

Q. And that is continuous from 1901 approximately for every year down to the present time?

A. Approximately the same, I should say.

Q. What was the maximum output for any year of your company in rails since the beginning of 1901, if you know?

A. I think our maximum tonnage was in 1907, and it was approximately 280,000 tons.

Q. What was it in 1912?

A. It was about 180,000 tons.

Q. And in 1911?

A. About the same, approximately.

Q. And in 1910?

A. I don't remember.

Q. Have you had any occasion to examine your records recently as to your production in rails?

A. I have not.

Q. You do not recall definitely any of the years back of 1910, so as to give an approximate estimate of what your tonnage was in rails per year—output, I am referring to now?

A. With the exception of 1908, which was a very poor year, our rail output has averaged about 180,000 tons. That is as near as I can come to it.

Q. When did you begin the manufacture of open hearth rails?

A. In a small way about eight years ago, about 1905, but not to any great extent until about 1909.

Q. Do you know how many rails your company sold in the west in the year 1901?

A. I do not.

Q. When I speak of west, I mean west of Pittsburgh.

A. I do not.

Q. Do you know the approximate tonnage that your company sold west of Pittsburgh for any year from 1901 down

to the present time, and if so, state for what years and give the approximate tonnage.

A. I do not.

Q. Then you do not know whether the percentage of rails that you were selling west of Pittsburgh for the last three or four year was greater or less than it was for the first three or four years from 1901, do you?

A. I should say it was considerably greater in recent years.

Q. What would you call recent years?

A. Within the last three years.

Q. Approximately what tonnage did you sell west of Pittsburgh three years ago? That would be speaking of 1910?

A. West of Pittsburgh?

Q. Yes.

A. It is difficult for me to make an estimate of that kind, because our larger purchasers, including the Pennsylvania Railroad and the Baltimore & Ohio, buy from us, and we deliver f. o. b. their tracks at Johnstown, and I do not know where those rails are used; some of them we know are used on the Chicago division. Others are used in the east.

Q. What tonnage did you sell the Pennsylvania Railroad in 1910, approximately, in rails?

A. I think 38,000 tons.

Q. And in 1911?

A. I think it was only about 20,000 tons.

Q. And 1912?

A. About 35,000 tons.

Q. Are you speaking of the Pennsylvania proper or the Pennsylvania Lines as a whole?

A. The Pennsylvania Lines.

Q. What tonnage did you sell to the Baltimore & Ohio for each of those three years?

A. I do not remember the B. & O. tonnage.

Q. You spoke of selling this year certain tonnage west. Was it for this year you spoke of selling a certain tonnage west?

A. For the last three years particularly.

Q. And you cannot give any estimate of the tonnage so sold during the last three years? Give it by years, if you can.

A. My estimate would be about 100,000 tons in each of the last three years. That is as near as I can estimate it.

Q. What I want to know now is what do you mean by west as used both in your cross examination and direct examination.

A. West of Johnstown.

Q. West of your works?

A. Yes.

MR. SEVERANCE: He gave a list of the railroads in his direct examination.

MR. COLTON: Yes.

By MR. COLTON:

Q. Now, in 1909 do you know what tonnage you sold west of Johnstown, approximately?

A. I do not.

Q. Would it not amount to as much as 75 or 80 thousand tons?

A. I think not.

Q. Do you know what it would be for 1907? Would it not be more than 75 or 80 thousand tons?

A. I think not. We used to put a heavier tonnage to the western roads when the agitation commenced, you know, for a better rail, caused by the numerous breakages several years ago. That enabled us to put a heavier tonnage.

Q. Didn't that agitation occur in 1907?

A. It probably commenced even before that time, but it did not develop into such a serious proposition until a few years ago.

Q. You spoke of mills of the Steel Corporation that manufactured and sold rails in competition with you during, I think you said, the last several years; and mentioned the Carnegie and Illinois. In speaking of the Carnegie I suppose you included its various mills, whether located at Pittsburgh or Youngstown?

A. The Carnegie Company has not rolled any considerable

quantity of rails at Youngstown, as I understand, during the past few years. They have rolled them practically all at Pittsburgh.

Q. The Youngstown mill and the old National Steel Company——

A. Has been converted into a billet and sheet bar mill, more particularly during the past few years, I understand.

Q. At all times that mill has varied back and forth from sheet bars to rails, has it not?

A. Yes.

Q. You did not mention the Lorain Company, located near Cleveland. That has rolled standard rails during the last three years, has it not?

A. Not to my recollection.

Q. Have you been to that plant?

MR. SEVERANCE: You say the Lorain has in the last three years?

MR. COLTON: I think so. I think I have seen an order within the last three years. I am just asking for his recollection.

MR. SEVERANCE: He says he never heard of it.

THE WITNESS: My recollection is that they roll only girder rails. I am not positive about that.

By MR. COLTON:

Q. Have you visited their rail mill?

A. I have not.

Q. In 1911 what was your output in wire products?

A. We were just starting; approximately 30,000 tons.

Q. In 1912?

A. I think 56,000 tons.

Q. And up to the present time this year what has been your output?

A. We will probably produce 75,000 or 80,000 tons this year.

Q. What is your capacity in wire rods?

A. About 12,000 tons per month.

Q. And your capacity in other wire products, the finished

products, would be slightly less than your capacity in wire rod products?

A. Yes—I would like to correct that; not slightly less, but considerably less. Our finished capacity is less than our rod capacity.

Q. Is it less by reason merely of loss in transforming, or is it less because your capacity in the finishing mills——

A. Because the plant was designed with a view of selling a pretty fair tonnage of our product as rods, and there was no necessity for spending the money for the higher finished product for more than about half the capacity.

Q. In answer to a question from Mr. Severance calling the Wickwire Company a strong company you said "yes." What different wire products does the Wickwire Company manufacture?

A. Well, fence; they manufacture a pretty general line.

Q. Do you know what their wire rod capacity is, if anything?

A. I do not. I think they buy a great many rods.

Q. Do you know whether they roll any of their rods?

A. I am not sure that they do.

Q. The Wright Company: do you know what products it manufactures?

A. It manufactures a great many of the higher finished products, such as wire rope.

Q. Fine wires in general?

A. Finer wires usually, although they make some of the ordinary wire products.

Q. By "ordinary wire products" you mean wire rods, wire nails, fencing, barbed wire——

A. I don't think they make nails or barbed wire, but some of the plain ordinary wire used for various purposes. I do not think they make rods.

Q. What I was asking you to define there was ordinary wire products—not as manufactured by them, but generally. Would not that include wire rods, wire nails, fencing, barbed wire and plain wire and smooth wire?

A. Plain wire, but I do not think rods; and I do not think

barbed wire; more particularly in the higher priced specialties, and some plain wire.

Q. I would like to have you hear that question again. I do not think you understood it.

MR. SEVERANCE: He has already answered it.

MR. COLTON: I think the witness still thinks I am speaking of the products of the Wright Company. I intended to ask him, by my question, to define ordinary wire products.

THE WITNESS: I did misunderstand you, then.

(By request, the stenographer repeated the question under discussion, as follows:)

"Q. By 'ordinary wire products' you mean wire rods, wire nails, fencing, barbed wire"——

(The stenographer also repeated the succeeding question as follows:)

"Q. What I was asking you to define there was ordinary wire products—not as manufactured by them, but generally. Would not that include wire rods, wire nails, fencing, barbed wire and plain wire and smooth wire?"

By MR. COLTON:

Q. That is, ordinary wire products include those things?

A. Yes.

Q. And in your previous answer you were speaking of what the Wright Company was manufacturing, when you spoke of the finer wire products—and what else?

A. Principally, as I say, cables and—well, the same character of goods that Roebling makes, principally, although they have a few of the common, ordinary, plain wire products.

Q. Do you know what wire rod capacity Wright has, if any?

A. I do not think they have any rod capacity.

Q. Do you know what rod capacity the Atlanta Steel Company has, if any?

A. I do not.

Q. Do you know that they have any capacity whatever?

A. I do not.

Q. Do you know what their output is?

A. I do not.

Q. Do you know what the output of the Grand Crossing Company is?

A. I do not.

Q. The Ashland?

A. I do not.

Q. Kokomo?

A. No.

Q. Southern?

A. No.

Q. Do you know how long the Crucible Company has been manufacturing merchant bars?

A. I do not. I know for a great many years.

Q. Their output is very largely crucible steel, isn't it?

A. Up to this time, yes. They have some new open hearth furnaces and they are making a fairly good tonnage of ordinary open hearth steel.

Q. When were those furnaces built, if you know?

MR. SEVERANCE: What is that?

By MR. COLTON:

Q. When did those furnaces begin to operate, if you know?

A. I don't know.

Q. Recently?

A. Comparatively recently.

Q. Two years or one year?

A. Within a year.

Q. You named certain plate manufacturers; what different sizes were you including as plates; when you were naming the plate manufacturers, what gauges were you including?

A. I referred principally to those making plate an eighth of an inch and heavier, and from say six inches up to 150 inches in width. Of course not all of them had that range.

Q. You named the following as manufacturers of plates; I don't know whether you called them the principal manufacturers or not; that is what I want to bring out; I want to bring out who were the principal and who were not: The Jones & Laughlin, Lackawanna, Lukens, Worth, Carbon,

Otis, Portsmouth, Allegheny, and La Belle. Name the five largest of those.

A. The more important ones are Lukens, Worth, Lackawanna and Jones & Laughlin.

Q. Name any other plate manufacturers in the United States if you can.

A. Except those mentioned in your question?

Q. Other than those, yes; other than the entire list that I just read you. You have that in mind, haven't you?

A. Yes; you have included the Portsmouth?

Q. Allegheny, La Belle and Carbon.

A. The United Steel Company, Canton, Ohio. That is all I recollect. Inland, I don't think were included there. They have recently started a 90-inch plate mill.

Q. They have not begun to sell plates as yet?

A. Yes, sir.

Q. Do you know whether they have actually put any plates on the market or not?

A. They have.

Q. Did they put any plates on the market previous to January 1st, 1913?

A. I think not.

Q. You spoke of the manufacturers of structural material, naming the following: Jones & Laughlin, Lackawanna, Eastern, Inland, Phoenix, Bethlehem and Republic. Would you name the larger of those structural manufacturers?

A. Jones & Laughlin, Lackawanna, Inland, Eastern, Phoenix, Bethlehem, by the way. Bethlehem is one of the very largest.

Q. You are now speaking of companies outside of the Corporation?

A. Yes, sir.

Q. And your own company would go in there as one of the companies to be classed with the Inland or some of the others?

A. One of the largest.

Q. What sizes of structural shapes, if any, are manufactured by the Republic that are generally classed as structural shapes as contrasted with bar mill products?

A. Practically none, if any.

Q. Can you name any of the other manufacturers of what are usually classed as structural shapes?

A. Not at the moment.

REDIRECT EXAMINATION

By Mr. Severance:

Q. You were asked a long and somewhat involved question, in substance you were asked whether you knew how the prices were fixed on various commodities other than the ones that you had special charge of previous to January 1st, 1912.

Mr. Severance: Wasn't that your question, that long question?

Mr. Colton: It was different products at different times.

Mr. Severance: No, you asked one long question there that you had written out.

By Mr. Severance:

Q. Calling your attention, Mr. Replogle, to the following question, which was put to you on cross examination:

"Q. That you cannot tell whether the prices that were fixed by the Cambria during that time were for a part or the whole of that time fixed as a result of agreements in such pools as may have existed during that period, concerning which pools you know nothing, or as a result of such meetings or committee meetings as may have been held during that period, concerning which meetings or committee meetings you know nothing; is that correct?"

And you answered:

"A. I know nothing about that."

Did I understand that for a certain period of time previous to 1910 you attended meetings of the sales manager and the vice president and others, at which prices were discussed from day to day in your own organization?

A. I did.

Q. Who were these gentlemen that were present at those meetings?

A. In addition to Mr. Price, the vice president who had charge, there were present H. C. Wolle, General Superintendent; there were usually present Mr. Wolle, General Super-

intendent and Mr. Krebs, the general manager of sales and myself; occasionally some others.

Q. Now, in those meetings did you arrive at a decision as to what prices should be charged for certain tonnages which were submitted to you by the sales manager?

A. Very frequently.

Q. Then you did know how those prices were made?

MR. COLTON: That is objected to on the ground that the witness does not know whether they were made pursuant to some agreement as to minimum price on the outside or not.

THE WITNESS: Did I testify to that?

By MR. SEVERANCE:

Q. No, I don't think you understood Mr. Colton's question.

A. Maybe not.

Q. Those prices were made at those meetings, weren't they?

A. May I ask to have the question reread?

Q. Just a moment. I will put the question to you. I call your attention to the following question and answer on cross examination:

"Q. That you cannot tell whether the prices that were fixed by the Cambria during that time were for a part or the whole of that time fixed as a result of agreements in such pools as may have existed during that period, concerning which pools you know nothing, or as a result of such meetings or committee meetings as may have been held during that period, concerning which meetings or committee meetings you know nothing; is that correct?

"A. I know nothing about that."

I will ask you if you understood that question when you answered it, and if you have any further explanation that you desire to make in answer to it. If so do it.

A. My interpretation of that question was whether I knew of the existence of any pools or arrangements as to price. I did not, and I can only say in these conferences there was never any intimation of any such arrangement with our competitors, and that we very frequently fixed in those confer-

ences the price which would be charged by our company or which in some cases had been offered to us, and that we would decide whether or not to accept it.

Q. And during what period of time did those committee meetings continue?

A. Up until June of 1912.

Q. For how many years back?

A. From about 1906 or 1907; I should say about five years.

Q. You spoke of making certain light rails. Are those girder rails?

A. No; they are usually for mine use, in coal mines and lumber operations.

Q. What other mills were making those?

A. Other than the Steel Corporation; Jones & Laughlin, the Pennsylvania Steel Company, the Lackawanna; and the rerolling mills come into that competition, such mills as the Cumberland Steel Company, of Cumberland, Maryland, and the Sweet Steel Company at Williamsport, and a plant up at Hydes Station, which is controlled by the Newhall Engineering Company; and there is a plant out in Ohio, I think at Portsmouth.

Q. Is that product sold on a competitive basis?

A. Always.

Q. You spoke of the Crucible having some open hearth furnaces; how many have they, do you know?

A. I do not.

Q. What does the Brier Hill Steel Company make?

A. That is a new plant, organized a few years ago, and they have not commenced operations to any great extent. It is a combination of three or four plants out in the Mahoning Valley district.

Q. Those plants had been in existence before?

A. They had been in existence before.

Q. Do you know what product they make?

A. Well, sheet bars and billets and some tin plate, I think.

Q. Did you mention any of those as among your competitors, any of these subsidiaries of the Brier Hill?

A. I did not. We compete with them to a very limited extent.

Q. What does the Alan Wood Company make that comes in competition with you, if anything?

A. More particularly billets, forging billets.

RECROSS EXAMINATION

By Mr. Colton:

Q. You do not know what minimum prices may have been arrived at at any of the pool meetings or committee meetings that may have been held during the period of 1901 to 1910, in respect to the different steel products, other than forgings and anxles, do you?

Mr. Severance: I wish to object to that question on the ground that it is not based upon any evidence in the record, as incompetent, immaterial, and not cross examination.

(The question was repeated by the stenographer.)

Mr. Colton: I am not assuming that there were any pools. I will put another question.

By Mr. Colton:

Q. You do not know what minimum prices may have been arrived at in the various pool meetings among the different manufacturers in respect to the following steel products: rails, structural shapes, plates, bars and billets?

Mr. Severance: Have you finished the question?

Mr. Colton: Yes.

Mr. Severance: I object to it on the ground that it assumes as its foundation matters of which there is no proof in the record, as not cross examination, irrelevant and immaterial.

Mr. Colton: There is proof in the record.

Mr. Severance: None whatever.

(The question was again repeated by the stenographer.)

The Witness: I know of no pools or prices fixed by any pools.

By Mr. Colton:

Q. You do not know what prices may have been arrived at as the result of meetings among the different manufacturers, do you?

MR. SEVERANCE: I object to that as not founded upon any evidence in the record whatever, there being no evidence that any such prices were ever arrived at at any such meetings; therefore it is incompetent and immaterial.

THE WITNESS: I do not.

By MR. COLTON:

Q. You did not attend any committee meetings yourself outside of your own company, did you?

A. I did not.

Q. You did not attend any form of pool meeting whatever?

A. I did not.

Q. If the price arrived at at the pool meeting fixed a certain minimum, and the price arrived at at your committee meeting did not go below that minimum, there would not be any way that you could tell whether they were fixing it pursuant to an agreement in the pool meeting or not, would there?

MR. SEVERANCE: I object to that as absolutely argumentative, not founded on any testimony in the record, incompetent and immaterial, not cross examination, and speculative.

THE WITNESS: By our committee meeting I assume you mean the conference in our own organization?

MR. COLTON: Yes.

THE WITNESS: I would like to have the question read.

(The question was repeated by the stenographer.)

THE WITNESS: Except I am satisfied that if anyone present at our conference had attended any pool meeting, the information would have been transferred to the others.

By MR. COLTON:

Q. Did you attend any conferences during the period from 1901 to 1904 among your company officers?

MR. SEVERANCE: You mean covering matters of sales?

By MR. COLTON:

Q. Yes; just the same conferences as we have spoken of.

A. Only in a general way. Being in touch with the officers, we would occasionally be called in by the general manager to

discuss various matters, operating and sales, in a general way.

Q. Including prices?

A. Yes, sir.

Q. Did they ever refer to the fact that they were attending pool meetings during that period in structural shapes, bars, plates, rails, or any other product?

A. They did not, to my knowledge.

Q. During the period from 1905 to 1907, up to the time of the panic, did they ever refer to the fact that they were attending various kinds of meetings that followed pools in structural shapes and plates—any of your officers?

A. I think several of our officers, or at least one, Mr. Price, referred to the fact that he had attended certain dinners here in New York, of the details of which I know nothing.

Q. I am not speaking of attending the Gary dinners, but of attending committees among manufacturers that followed the formal pool of 1901 to 1904, as to whether any of your officers spoke of those meetings.

A. Not to my recollection.

Q. During that period that followed the panic, did any of your officers, in any of these conferences that you had in respect to prices, refer to the fact that they had attended different committee meetings among manufacturers?

A. Not to my recollection.

Q. They at no time informed you as to the prices discussed at those committee meetings, if there were any, did they?

A. Never.

Q. And what you say in respect to these committee meetings is true in respect to the pools? They never informed you in regard to the prices discussed by them, either at the pool meetings or the committee meetings, did they?

A. If there were any pools, they never discussed the prices or anything connected with them, with me.

MR. COLTON: That is all.

MR. SEVERANCE: That is all.

JOSEPH H. CHANDLER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Where do you live?

A. Chicago.

Q. What is your profession?

A. Attorney-at-law.

Q. Did you ever have any professional connection with the Duluth & Iron Range Road?

A. Yes.

Q. When did you first have to do with that road?

A. In May, 1887.

Q. In what connection?

A. At the time Mr. H. H. Porter purchased the stock of the Minnesota Iron Company and the bonds of the Duluth & Iron Range Railroad, I was employed by him to prepare the papers for the contract and purchase, and so forth, and that was in May, 1887.

Q. And did you continue as counsel for that road for some time thereafter?

A. I did until 1901; then I was still in the legal department until 1904.

Q. Were you familiar with the location and business of the road at the time it was purchased by Mr. Porter?

A. I was.

Q. Where did the rails run?

A. From Duluth, by way of Two Harbors, to the Minnesota mines at Tower.

Q. Now, was that road shortly thereafter extended from Tower?

A. After the purchase by Mr. Porter and his associates the road was extended in 1888 to Ely.

Q. How far is that from Tower?

A. That is 20 miles.

Q. What was the purpose of that extension?

A. To get out and transport the ore from the Chandler mine, which at that time was the only mine there.

Q. Do you remember when the road was extended over to the Mesabi Range?

A. It was completed in 1893.

Q. To what point was it built?

A. It was built first to a point just east of Virginia, probably half a mile or a mile east of Virginia, on the Mesabi Range, and then branches were built to the different mines that were owned by the Minnesota people.

Q. By the Minnesota Iron Company?

A. Yes.

Q. And what was the purpose of that extension?

A. To get out the ore from the properties that the company owned and controlled.

Q. Did any other railroad reach those properties?

A. Not those properties, no.

Q. What was the principal traffic over these extensions as well as over the main line?

A. Ore almost entirely; 90 per cent. or more of it was ore.

CROSS EXAMINATION

By Mr. Dickinson:

Q. That road carried ore for others besides the Minnesota Iron Company, did it not?

A. It did after a while, yes.

Q. When did it begin?

A. I could not tell you, Judge, exactly, but in the course of three or four years there was some ore opened on the Vermilion Range east of the Chandler, which was hauled by the Duluth & Iron Range, as it is to-day.

Q. You say three or four years. From what time?

A. I think it was probably, after our road was built in there, about three years.

Q. From what time?

A. We went in there in 1888; probably from 1890 to 1891 or 1892; I could not give you the exact date.

Q. There was a constant development, was there not, in that territory?

A. There has been quite a good deal of development, yes.

Q. And this road served not merely the Minnesota Iron Company, but other people?

A. It served what is known as the Zenith—well, no, I don't think it is the Zenith.

Q. I mean, as mines developed?

A. There was one mine up there, as I say, about two or three years after our road was extended there.

Q. I mean to say, after the road was extended there was a constant development and this road hauled ore for other mines as well as the Minnesota Iron Company?

A. Yes.

Q. And continued to do that?

A. Yes, it did, until the United States Steel Corporation was formed.

Q. It did then, did it not?

A. Oh, certainly, because the mines were owned or controlled by the Minnesota Iron Company and the Oliver Iron Mining Company.

MR. DICKINSON: That is all.

F. C. WORTHINGTON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you live?

A. Aurora, Illinois.

Q. What is your business?

A. I am secretary and purchasing agent of the Western Wheeled Scraper Company.

Q. What is the business of that company?

A. The manufacture of wheeled scrapers, drag scrapers, plows, road machinery, dump cars.

Q. What are your annual tonnage requirements of steel products?

A. For a few years past, from 15,000 to 20,000 tons.

Q. For how many years past?

A. Two to three years.

Q. Previous to that time how much?

A. It tapered off gradually, as our business increased, of course, during a term of years; probably twelve years ago we were purchasing 5,000 tons a year.

Q. It has gradually increased?

A. It has gradually increased.

Q. What class of steel materials did you have to purchase for your business?

A. Principally bars, shapes and plates.

Q. In what way do you make your purchases? Under contracts for a certain tonnage or for a certain requirement, or in the market generally?

A. The larger part are made by yearly contract.

Q. Does that provide for a maximum and a minimum tonnage which you estimate will be your requirement?

A. It does.

Q. Do you sometimes underbuy, so that you have to go into the market to purchase? That is, does your contract sometimes cover less than your requirements, so that you have to go into the market and supply your needs?

A. Rarely, but we go into the market to buy sometimes for quicker delivery than we can get under our contract.

Q. That is, when you want something quickly, and it is not due under your specifications, you go into the market for that?

A. Yes.

MR. DICKINSON: He did not say that.

MR. SEVERANCE: That is what he does say.

MR. DICKINSON: He never said a word about being due under specifications. No such words were used.

By MR. SEVERANCE:

Q. I will ask whether that is the fact.

A. That is the case.

MR. SEVERANCE: I put it as a question, and he answered it "yes," Judge.

MR. DICKINSON: You put as a statement, and he acquiesced.

MR. SEVERANCE: That is right.

MR. DICKINSON: I object to that as leading.

MR. SEVERANCE: All right, Judge, if you want to waste time on that, I will ask him to explain it in detail.

MR. DICKINSON: I am simply objecting to the form of your question, as leading.

By MR. SEVERANCE:

Q. Explain what you meant by saying that you sometimes had to go out into the market to get things for quicker delivery. How did you happen to have to do that?

A. At the time when the mill holding our contract might be several months behind on the delivery, and we would require the material in two or three weeks, or thirty days, we would have to buy outside of our contracts, in order to secure the needed delivery.

Q. In what kind of times has that happened?

A. Only in good times.

Q. Only in exceedingly good times, has it not?

A. Yes.

Q. From what different concerns have you made your purchases of these materials that you have mentioned, bars, structural material and plates?

A. We have purchased from the Illinois Steel Company, the American Steel Hoop, the Carnegie Company, Jones & Laughlin, the International Harvester Company, the Eastern Steel Company, the Cambria Company and, occasionally, we have purchased from Worth Brothers and Lukens Iron & Steel Company.

Q. Have you ever bought anything from the Inland?

A. A great deal, yes.

Q. You did not mention the Inland?

A. We did, particularly in one season. Our entire contract for one season was with the Inland.

Q. When was that?

A. 1910 and 1911.

Q. Is it or is it not your practice, before making your contracts, to secure quotations?

A. It is always our custom to secure bids.

Q. And have those bids come in to you varying, ordinarily, or uniform?

A. They have varied always.

Q. On this class of material, about what would you say from your observation would be the minimum and maximum spread that you found between the bids at different times?

A. The variation has been as small as one cent a hundred pounds, or 20 cents a ton, and as high as $2 a ton—as high as $4 a ton, I will say.

Q. Have you purchased your requirements on a competitive basis?

A. Always.

Q. Outside of these bars, structurals and plates——

MR. DICKINSON: He said shapes.

MR. SEVERANCE: It is the same thing.

By MR. SEVERANCE:

Q. Have you bought any other materials of any sort made by the subsidiaries of the United States Steel Corporation or of the class that they make?

A. Yes; we have bought M. C. B. car axles, we have bought structural rivets.

Q. Take up the matter of car axles; from whom have you bought your car axles?

A. From the American Bridge Company.

Q. When did you buy car axles from the American Bridge Company?

A. About the year 1905.

Q. Have you bought car axles from any other manufacturer selling in the same market as the Corporation's subsidiaries?

A. Yes; we have purchased from Willard Sons & Bell Company and the Standard Forgings Company.

Q. Have you ever bought any axles from Carnegie or the Illinois Steel at any time?

A. No axles from Carnegie. We have not purchased any

axles from the Illinois Steel Company, although we have had quotations from the Illinois.

Q. You say you have not purchased from them?

A. We have not purchased any axles from the Illinois Steel Company.

Q. What are your annual requirements in car axles; I suppose that has increased from time to time, but what is it now?

A. Probably three to four thousand.

MR. DICKINSON: Tons?

THE WITNESS: No, axles.

By MR. SEVERANCE:

Q. Who is furnishing you your axles at the present time?

A. Willard Sons & Bell Company.

Q. How long have they been doing that?

A. Since 1908.

Q. And immediately previous to that who did you buy axles from?

A. The Standard Forgings Company.

Q. Have you purchased your axles on a competitive basis?

A. Always.

Q. Receiving bids?

A. Yes, always.

Q. You mentioned some other product a moment ago?

A. Structural rivets.

Q. Where have you purchased them?

A. From the Illinois Steel Company, from the Inland Steel Company and from the Champion Rivet Company.

Q. In general have you made your purchases in the same way as with other things by taking quotations?

A. Always on bids.

Q. And letting them to the best bidder?

A. Yes; on a competitive basis.

Q. Do you buy any pipe or tube, pipe fittings?

A. We do.

Q. What do you use that for?

A. Principally for the piping of the air in our dump cars,

for the air brake apparatus. We also use a great many short lengths in our smaller tubes.

Q. Where have you secured your supplies of tube and pipe?

A. Principally from the Crane Company and from the National Tube Company.

Q. Where do you get your pipe fittings?

A. From both of those parties.

Q. The Crane Company sell the National Tube pipe, don't they?

A. I believe they do.

Q. So that you have had all of your pipe, have you, from either the National Tube direct or from Crane?

A. The larger part; yes, sir.

Q. You bought some from other parties?

A. It would be a negligible quantity.

Q. And how as to the matter of pipe fittings; how has that been divided between Crane and the National Tube?

A. Usually we have purchased the pipe fittings for a given number of cars together with the pipe, but at times the quotations have varied so that we would not do this; for instance, in one case Crane Company might quote lower on the pipe fittings and the National Tube might quote lower on the pipe. We would divide the business between those that quoted the best price.

Q. Have you found a variation in price of the tube itself as between Crane and the National?

A. We have.

Q. Could you give us an estimate as to the percentage of your fittings that you have secured from Crane and the percentage from the Tube Company?

A. Well, I should say about 75 per cent. from the Crane Company.

Q. How has the average cost of steel bars at the present time for the last two or three years compared with what it was twelve years ago, higher or lower?

A. It is lower.

Q. Give me an idea of how much lower?

A. Yes; I had occasion recently to figure up the averages which I took from our books, and I found that for the past twelve years our bars had averaged $1.52 per hundred weight delivered in Aurora, and for the past five years the average had been $1.37, or about 10 per cent. lower than the average for the twelve years.

Q. Do you recall about what you paid in 1901 and 1902 for bars delivered in Aurora?

A. I think about $1.57 in 1901 and probably about the same in 1902.

Q. In receiving quotations as you have in these various lines of steel materials that you purchased, have you observed anything indicating any agreement or understanding between the competing bidders as to prices?

A. None whatever.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

F. C. WORTHINGTON,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Take the present year: what proportion of all your purchases in the kind of steel articles that you buy have you bought from subsidiaries of the United States Steel Corporation?

A. Probably 95 per cent.

Q. Has this been under contract?

A. Yes.

Q. How many contracts have you made this year with subsidiaries of the United States Steel Corporation, and with whom have you made them, and when did you make them, and what commodities did they severally cover?

A. I have made just one contract, for bars, structural and plates, this year.

Q. When was that?

A. In April; although I have bought some shipments outside of that, but not under contract.

Q. With whom was this contract made?

A. With the Illinois Steel Company.

Q. What time in April was that made?

A. I think about the middle of the month.

Q. What was the maximum and minimum tonnage covered by that contract?

A. 16,000 to 20,000 tons.

Q. 16,000 minimum and 20,000 maximum?

A. Exactly.

Q I believe you stated that your annual requirements are from 15,000 to 20,000?

A. Yes, sir; in good years.

Q. So that is approximately what your annual requirements would be for this year?

A. Yes, sir.

Q. With whom did you negotiate that contract? With what representative of the Illinois Steel Company?

A. It came through Mr. Kingsley, acting for Mr. Baker, the general sales agent at Chicago.

Q. What are Mr. Kingsley's initials?

A. R. C.

Q. Did he come to see you or did you go to see him, or did you do it by correspondence?

A. He came out to see us.

Q Had you had any previous correspondence looking to this contract before he came, or did you take it up with him when he came?

A. I think that I had had communication by telephone with the Chicago office.

Q. From him?

A. I cannot say with whom, now, but coming from Mr. Baker, the general sales agent.

Q. And in pursuance of that he came to see you?

A. Yes.

Q. Did he make you a proposition or did you make him a proposition?

A. He made us a proposition.

Q. Did you accept the proposition as he made it?

A. After getting some other figures on that.

Q. What day did he come there?

A. I could not say what day.

Q. How long after he came before you closed this?

A. Probably not more than two days.

Q. Then did his proposition, or what you talked to him about, contemplate a minimum and a maximum such as this 16,000 to 20,000?

A. It did.

Q. After you took this up with the Illinois Steel Company, and before you consummated it, did you take any bids on that maximum and minimum of this same kind of commodity as was included in that contract? If so, what bids did you take, and from whom and what were they?

A. A representative of the Jones & Laughlin Steel Company was out and made one proposition.

Q. When was he there? Before or after the other man came?

A. It was before he came out the first time.

Q. How long before?

A. I should judge within a week.

Q. After you got this telephone communication from Chicago how long was it before this representative of the Illinois Steel Company came out?

A. I don't remember. I think that as much as two weeks previous to making the contract that I had told the Chicago office that I had the matter under consideration.

Q. That you had what matter under consideration?

A. That I had the matter of making a contract under consideration.

Q. For 16,000 to 20,000 tons?

A. Yes, sir.

Q. When was that statement in reference to the telephone communication?

A. I could not say on what day that was, or at what time.

Q. You said you saw the representative of Jones & Laughlin about a week before?

A. I think about a week previous.

Q. I mean, about a week before this representative came out?

A. Yes, sir.

Q. Had the Steel Company made you any price before this representative came out?

A. They had not.

Q. They made it, then, did they, when he came out?

A. The Illinois Steel Company's price was made at the time their representative called.

Q. That is what I mean.

A. Yes.

Q. And within two days after that you closed the transaction?

A. Yes.

Q. And you saw the Jones & Laughlin man about a week before that?

A. That is my recollection.

Q. Did he make a proposition to you or did you make a proposition to him?

MR. SEVERANCE: Which one do you mean—Jones & Laughlin?

By MR. DICKINSON:

Q. Jones & Laughlin, yes.

A. He made a proposition to us.

Q. Did he make you a definite proposition on a minimum of 16,000 to 20,000, or was any tonnage spoken of?

A. I don't think that any definite tonnage was mentioned, although he understood that our requirements were between 15,000 and 20,000.

Q. Had you stated to him that you intended to cover those requirements by one contract?

A. I don't remember that I did.

Q. Do you know that you did?

A. No, sir.

Q. What price did he bid to you on bars, structural and plate—base price?

A. The Jones & Laughlin price was $1.59 delivered in Aurora.

Q. $1.59 on what?

A. Bars.

Q. And what on structural?

A. Five cents higher on structural and plates.

Q. Did he give you a price Pittsburgh?

A. Not that I remember.

Q. What price does your contract call for with the Illinois Steel Company on bars?

A. $1.35 on bars; that is, $1.35 Pittsburgh, that would be.

Q. $1.35 Pittsburgh?

A. Yes; that would be $1.54 Aurora.

Q. How much on structural?

A. $1.59 on structural and plates.

MR. SEVERANCE: That would be five cents on each one under Jones & Laughlin? Is that the way it figures?

MR. DICKINSON: I think while I am going on with the examination that you should not interrupt, Mr. Severance.

MR. SEVERANCE: I am just trying to carry it in my mind.

MR. DICKINSON: You do not need the assistance of the witness to enable you to do that.

By MR. DICKINSON:

Q. Under your contract with the Illinois Steel Company who was to pay the freight—you or the Illinois Steel Company?

A. We pay the freight.

Q. Where is that contract?

A. In Aurora.

Q. You have possession of it?

A. Yes.

Q. I will ask you to send it on here, please, to Mr. Severance.

A. All right.

Q. After this proposition was made to you by the United

States Steel Corporation, you had no further communication, had you, with Jones & Laughlin?

A. No, sir.

Q. And the price that they made you was ten days or more before that, was it?

A. I should judge so.

Q. Did you take any bids from anybody else?

A. No, sir; I did not, but the market level at that time was $1.59 delivered in Aurora.

Q. On bars? And five cents higher on sheets and plates?

A. On shapes and plates.

Q. Now, you say the "market level." What do you mean by market level?

A. The quotations in the trade papers.

Q. And how long had they been that way at that price?

A. Several months.

Q. And Jones & Laughlin quoted you the trade paper price?

A. Yes.

Q. And about ten days after that the United States Steel Corporation quoted you this lower price?

A. Yes.

Q. And you never took any other bids except those two?

A. That is all.

Q. And you never had any special talk with the representative of Jones & Laughlin about any special amount?

A. Not that I remember.

Q. Now, take 1911: What proportion of all your requirements of bars, structural and plates did you get from the subsidiaries of the United States Steel Corporation?

A. Well, I think 75 per cent. I will explain that our contracts are usually made in the spring of the year, running for about a year, so that they cover parts of two years.

Q. I understand that. Now, take 1910; what was the percentage from the subsidiaries of the United States Steel Corporation?

A. The season of 1910 to 1911 was very small, because our contract that year was with the Inland Steel Company.

Q. Well, how much did you get that year from the subsidiaries of the Corporation in 1910-1911?

A. In 1910-11 the base price of the Corporation was $1.59 on bars and $1.64 on plates and shapes.

Q. That was in 1910-11?

A. Yes.

Q. Was that the quoted market price at that time?

A. As near as I remember.

Q. What difference was there between that price in 1910-11 on shapes and plates?

A. There was a spread of five cents a hundred.

Q. Just the same as the other year?

A. Yes.

Q. Now I asked you about 1911, and what proportion you got from the Corporation, and you said 75 per cent. I infer from what you said subsequently that you meant 1911-12, because you spoke of 1910-11.

A. I understood the year 1910-11.

Q. That was when you had it with the Inland.

A. Yes.

Q. I also asked you what you got from the Corporation in 1910-11. Did you mean the fiscal year of 1911 or did you mean from the middle of 1910 to the middle of 1911?

MR. SEVERANCE: Did you mean fiscal or calendar?

MR. DICKINSON: The first would be calendar and the next would be fiscal.

THE WITNESS: I understood your question was for 1912.

By MR. DICKINSON:

Q. No, I first asked you about 1912, and then I asked you about 1911 and you said 75 per cent. Take 1911, the calendar year; what proportion of your requirements did you get from the United States Steel Corporation's subsidiaries?

A. Possibly 25 per cent.

Q. Take the year from the middle of 1911 to the middle of 1912, what percentage did you get?

A. About 75 per cent that year.

Q. Now, coming back to 1911-12, as we have described

it, I now want to ask you about the price you paid. You said $1.59, I understood, for 1911. Just explain that if you want to make any statement about that.

A. Well, to avoid confusion, and anticipating your questions, let me begin with 1910-1911.

Q. All right.

A. Our contract that year was with the Inland Steel Company, and our price was $1.54 and $1.59 on the two classes of material, one class of bars and the other structural and shapes. For the season of 1911-12 our contract was with the Illinois Steel Company, and in that year there were unusual conditions; our structural material was in much better demand than bars, so that there was a greater spread, or a greater reduction shading the prices on bars than there was on structural.

Q. Just give the prices.

A. And the prices which we paid for bars were $1.29 delivered in Aurora and $1.50 on shapes and plates.

Q. Do you remember a break in price that year on account of the Republic reducing its price and other companies reducing prices?

A. I do.

Q. It was under these conditions that you made this contract, was it?

A. It was.

Q. When you made this contract with the Illinois for 1911 and 1912 at $1.29 for bars, what time of the year did you make it?

A. To the best of my recollection it was in May; it was in the spring of the year.

Q. And was that one contract? Did you make one contract with them?

A. Yes, sir.

Q. How much tonnage?

A. That contract was for from 15,000 to 18,500 tons.

Q. Now, with whom did you negotiate that contract?

A. Mr. Baker of the Illinois Steel Company.

Q. Where did you negotiate it?

A. In Mr. Baker's office in Chicago.

Q. You do not know the date, I believe?

A. No, I do not.

Q. How many times were you there in making this contract?

A. Once.

Q. One time?

A. Yes.

Q. What previous negotiations had you had with him about this particular contract before you made it, before that one visit?

A. I do not remember of any.

Q. Now, just state what transpired there, will you? You went to Mr. Baker's office?

A. Yes, sir.

Q. Did you make him a proposition or did he make you a proposition?

A. He made me a proposition.

Q. And was that the proposition upon which this contract was closed?

A. Yes, sir.

Q. How long were you there?

A. Oh, I should judge an hour.

Q. Did you close the contract then?

A. No, I did not.

Q. When did you close it?

A. Within one or two days afterwards.

Q. At that first meeting he made the proposition?

A. He did.

Q. Did you go back there and close it, or close it by letter?

A. I sent him word in some way and the contract was sent out to us for acceptance, the written contract.

Q. Didn't you conclude, except signing the contract—did you conclude the arrangements there?

A. No, I did not.

Q. How did you conclude it, by correspondence?

A. I am not sure whether it was by correspondence or by telephone; one way or the other.

Q. Did you have any communication between that meeting and the drafting by him and sending to you the contract?

A. I think not.

Q. You think not?

A. I think not.

Q. And the contract was sent out, then, in accordance with the conditions you discussed with him?

A. It was.

Q. And closed in that way?

A. It was.

Q. Now, at the time, Mr. Worthington, that you began these negotiations with Mr. Baker, did you take any bids on that particular tonnage?

A. I did.

Q. How long before that?

A. The afternoon that I had this talk with Mr. Baker I went from the office of the Inland Steel Company to Mr. Baker's office.

Q. That is, you went from the Inland to Baker?

A. Exactly.

Q. Did you go back to the Inland after you saw Mr. Baker?

A. I did not.

Q. Had the Inland made you a proposition?

A. They made me a proposition that afternoon.

Q. Before you saw Mr. Baker?

A. Yes, sir.

Q. What tonnage did their proposition cover?

A. I named the same tonnage as I did to Mr. Baker.

Q. Was there any market price quoted at that time?

A. Well, the market level was about $1.49 on bars, and $1.54 on plates, as I remember it.

Q. What price did the Inland quote you?

A. My recollection is that they made that price; that is, $1.49 and $1.54, and intimated that they might shade it two or three cents a hundred pounds.

Q. But that was the only price they made you?

A. Yes, sir.

Q. And that was the market quotation?

A. That was about the market level.

Q. You mean by that, the market level as shown in the trade papers?

A. Yes, sir.

Q. What trade papers?

A. I have the Iron Age.

Q. And when you speak of market level and market prices you refer to quotations in the Iron Age and other papers of that character?

A. Yes, sir.

Q. Now, then, did you take any other bids from anybody else?

A. I do not remember that I did.

Q. Now, on this price of the Illinois Steel Company, was that delivered at Aurora or not?

A. It was.

Q. And they were to pay the freight?

A. Well, the actual freight itself was sometimes prepaid and sometimes we paid it.

Q. That varied, didn't it? Sometimes one way and sometimes the other?

A. It varies between the different mills of the Illinois Steel Company.

Q. I am asking you in this particular contract who was to pay the freight and who actually did pay it.

A. Well, the price being delivered at Aurora, the United States Steel Corporation would pay the freight.

Q. And did pay the freight, didn't they?

A. Yes, sir.

Q. Now, in your contract for 1910 and 1911 with the Inland, when was that made?

A. I think that that was made about May, 1910.

Q. With whom did you negotiate that?

A. Mr. G. H. Jones.

Q. And where?

A. Mr. Jones called upon us personally that year, as I remember it.

Q. Referring to this particular contract, and his call, state

in reference to that call when you agreed to close. I do not mean when you actually signed the contract, but when you reached an understanding that it would be a trade?

A. As I recall it, Mr. Jones called upon us and made us a price, and within a couple of days afterwards, within a few days, I telephoned him that we would accept it.

Q. Was that price on a particular tonnage, maximum and minimum?

A. Yes, it was. I do not remember the tonnage.

Q. Well, now, between the call of Mr. Jones and your closing the contract, what bids, if any, did you take on the tonnage included in the Inland contract, and from whom did you take it and what were the prices?

A. I remember that I had the matter up through Mr. Kingsley, the salesman for the Illinois Steel Company, through his personal call in Aurora.

Q. When was that call in reference to this call of Jones'?

A. I think there were several calls that year, and some of them were before Mr. Jones' call, and some of them were between the time that Mr. Jones called and that I actually closed with Mr. Jones.

Q. You mean to say that the representative of the Illinois Company called and had negotiations with you several times about this particular purchase?

A. Yes, sir.

Q. And did he have any with you before Jones came to see you about that particular purchase?

A. I think a part of the calls were before, yes; I am sure they were.

Q. How long before Jones called was the nearest call of this representative of the Illinois Steel Company?

A. I should say within three or four days. The negotiations were pretty close together.

Q. Have you any remembrance about that?

A. Not absolutely, no; but that is my recollection. It was within a few days.

Q. Are you positive that he did, in respect to this particular contract?

A. Yes.

Q. Did he make you a price?

A. Yes, sir.

Q. What price did he make you?

A. $1.59 and $1.64 delivered in Aurora.

Q. What was the market price at that time, the ruling market price?

A. I think it was $1.59—no, I think the Pittsburgh base was $1.45. That would be $1.64 and $1.69.

Q. This $1.59 he quoted you: was that delivered?

A. Yes.

Q. What would that have been Pittsburgh?

A. The freight is 19 cents; that would be $1.40 Pittsburgh.

MR. SEVERANCE: Judge, when you asked that question a moment ago about "market price" you meant the price quoted in the trade papers, the same as before?

MR. DICKINSON: Yes.

MR. SEVERANCE: I just wanted to know if that was what you meant.

By MR. DICKINSON:

Q. At the time the Illinois Steel Company quoted you, what was the difference between their quotations f. o. b. Pittsburgh, and the prices quoted in the trade papers at that time f. o. b. Pittsburgh?

A. It is my recollection that the Illinois Steel Company's price was a dollar less than the trade quotations.

Q. Was the trade paper quotation delivered at Chicago or f. o. b. Pittsburgh, or how?

A. All of those quotations are based on Pittsburgh, with the Chicago rate of freight or the Aurora rate of freight added.

Q. Does the Iron Age sometimes quote Chicago prices?

A. If they do it is the Pittsburgh base plus the freight to Chicago.

Q. In giving the price quoted at that time, do you have any distinct recollection as to the Pittsburgh figures as contradistinguished from the Chicago figures?

A. It has been customary for the trade reviews to show

in one column the Pittsburgh price, and, following that, the Chicago price. The difference is the freight.

Q. I am not asking you about the custom. I am just asking whether you remember now and carry in your mind what the trade paper price was at that time?

A. I don't remember how it was printed in the papers then, but that is my recollection of the quotations.

Q. Do you mean to say you carry in your mind the figures of the time that the Illinois people quoted you?

A. I carry in my mind the trade quotations, but as to just how they may have been printed in the trade reviews, I could not say.

Q. I mean do you carry in your mind the quotations on the day that the Illinois made you that price?

A. No; but within a few days.

Q. Within a few days?

A. Yes.

Q. Before or after that?

A. Both.

Q. Is it not a fact that for periods of time what you speak of as the ruling market price—I believe you used that expression, did you not?

A. The market level.

Q. (Continuing) On these articles continued the same over quite a period of time.

A. Well, it is all due to the conditions.

Q. I understand, but does it not run sometimes weeks at a time without any change?

A. It does.

Q. And sometimes months at a time?

A. Just as conditions remain the same for months at a time.

Q. If conditions change there would then be a change in price?

A. Yes.

Q. That applies to all these articles, does it not?

A. It does.

Q. What did you pay the Inland, for the year 1910-1911?

A. I think I answered that.

MR. SEVERANCE: Yes; he answered that.

MR. DICKINSON; I do not think so.

THE WITNESS: Through the greater part of the term of the contract the price was $1.54 and $1.59, delivered in Aurora.

By MR. DICKINSON:

Q. What was the price to begin with?

A. That was the price.

Q. $1.54 and——

A. $1.54 and $1.59, yes.

Q. Delivered in Aurora?

A. Yes.

Q. And they were to pay the freight, were they?

A. Yes, sir.

Q. Was the price of the Illinois delivered in Aurora?

A. Yes, sir.

Q. What did you say they priced you?

A. Five cents a hundred higher.

Q. And the Illinois price—was it or not the price that you call the ruling market price as quoted then?

A. It was about five cents below it.

MR. SEVERANCE: Five cents a hundred. That would be a dollar a ton?

THE WITNESS: Yes; a dollar a ton.

MR. SEVERANCE: A short ton?

THE WITNESS: Yes; a net ton.

By MR. DICKINSON:

Q. In 1909-1910 what proportion of all your requirements did you get from the Steel Corporation?

A. My recollections are not so clear back in 1910, but I think about 75 per cent.

Q. How would it run back for previous years—back as far as 1901?

A. There would be a decreasing proportion and I could not say just what it would be, because back of that we split up our contract more.

Q. How far back?

A. Well, say back of 1909.

Q. That would be 1908-1909, or 1907-1908?

A. 1908-1909.

Q. What proportion did you get in that year from the subsidiaries of the United States Steel Corporation?

A. I could not say. I don't remember.

Q. Well, 1907-1908?

A. I don't remember very much more clearly for those years, but I should say, as an estimate, 60 to 70 per cent.

Q. Would that be about right for 1908-1909 also?

A. I should think so.

Q. I was asking you about 1907-1908.

A. I should think so.

Q. How about 1906-1907?

A. There would be a still lower proportion for 1905-1906.

Q. I am asking you about 1906-1907 now.

A. I could not remember the proportions back there, but there would be a decreasing proportion.

Q. As far as you can remember, then, anything about the proportions, with the exception of one year you have gotten from 60 to 95 per cent. of all your requirements from the subsidiaries of the United States Steel Corporation?

A. Yes, sir.

Q. Now, in 1909-10 with whom did you contract for the bulk of your requirements that year?

A. The larger portion was with the Illinois Steel Company.

Q. What time of the year was that?

A. I could not say, beyond that it was in the spring.

Q. There was a severe cut in that year, was there not?

A. Yes; the level was very low that year.

Q. Bars went down to $1.05 that year?

A. I think they did, or even lower.

Q. What did you pay for yours in that contract?

A. I think that year the contract was on the basis of $1.10 Pittsburgh.

Q. For bars, and then a differential of five cents on the others?

A. Yes.

Q. And you made that contract some time in the spring?

A. Yes.

Q. With whom did you negotiate that contract?

A. I think that was with Mr. Kingsley also.

Q. Where did you negotiate it?

A. In Aurora.

Q. Did he come to see you?

A. Yes.

Q. How long was he there?

A. I can not remember.

Q. One or two days or several hours or part of a day, or what?

A. I think he was there for an hour or so between trains.

Q. Now, at that time were prices fluctuating, or was there a general market level?

A. Well, they were fluctuating considerably. As I remember it, previous to that contract we purchased some bars as low as $1.04 Pittsburgh; that would probably be in January or February.

Q. Now, did you close with Mr. Kingsley there that day?

A. I can not remember the details that far back.

Q. Well, did you have any communication with him on the subject before he came out there?

A. I can not remember that.

Q. Did you have any quotations from him before he came out there?

A. I can not remember that.

Q. Do you know whether on that purchase you got any quotations from any others, and from whom you got them and what they were?

A. No, I can not remember whom I had quotations from.

Q. Now, in 1908-9 with whom did you contract for the majority of your rods, shapes and bars for the year?

A. The Illinois Steel Company.

MR. SEVERANCE: He has already answered that.

MR. DICKINSON: No, he answered about 1909-10.

MR. SEVERANCE: And 1908-9 too; he said 60 to 70 per cent. He told you that a long while ago.

MR. DICKINSON: I am on something different from that, if that is what you mean.

By Mr. Dickinson:

Q. What time did you contract with the Illinois Steel Company?

A. I don't remember.

Q. With whom did you negotiate the contract?

A. I don't remember that either.

Q. From whom did you take quotations, if any one, about that time, and what were they?

A. I had Jones & Laughlin's prices that year.

Q. You say you had their prices, but I am asking you from whom you solicited quotations about that particular purchase.

A. I don't remember the details.

Q. Do you know what price you paid in 1908-9?

A. I don't recall that.

Q. Do you know whether it corresponded with the market level or quoted price at that time or not?

A. It was lower.

Q. Do you know how much lower?

A. I think about a dollar a ton.

Q. What was the market price at that time?

A. I cannot recall it.

Q. You do not know the price at which you contracted?

A. I don't recall it now.

Q. Take the year 1907-8: at what price did you contract?

A. I don't recall that price.

Q. Do you know the relation between that price and the market level price as quoted at that time?

A. There were several years there that we contracted at about a dollar a ton under the market level.

Q. I will ask you now about 1907-8; first I asked you the price at which you contracted and you said you could not give it.

A. My recollection is that we contracted about a dollar a ton under the market level.

Q. But you cannot give the market price nor the contract price?

A. No.

Q. From whom did you get quotations upon this particular purchase, and what were they?

A. I don't remember.

Q. Do you remember that you got any?

A. Yes.

Q. And you cannot state from whom you got them?

A. Simply because we always had quotations.

Q. But you cannot give the name of a single person in 1908-9?

A. I feel sure we had quotations from Jones & Laughlin that year.

Q. But you do not know what they were?

A. No, sir.

Q. Now, I will ask you for 1907-8, what time you contracted.

A. I don't remember about 1907-8.

Q. Nor the contract price nor the market price?

MR. SEVERANCE: The last question was 1907-8, wasn't it?

THE WITNESS: I thought the last question referred to 1907-8.

(The question under discussion was repeated by the stenographer.)

By MR. DICKINSON:

Q. Now, answer about 1907-8: what time did you contract for the bulk of your supplies?

A. I cannot say; probably in the spring of the year.

Q. And with the Illinois Company?

A. Yes.

Q. What price did you pay?

A. I don't remember.

Q. The market price?

A. I don't remember.

Q. From whom did you get other quotations?

A. I don't recall.

Q. Do you know what Jones & Laughlin quoted you?

A. No, sir; I do not.

Q. Take 1906-7: did you contract for your bulk from the Illinois?

A. I would not say that we contracted for the bulk with them, but we contracted for a part of our requirements.

Q. Did you contract for the majority?

A. I think we did.

Q. At what price?

A. I don't remember the price.

Q. What was the market price at the time you contracted?

A. I think that it was $1.68½ on bars and $1.78½ on structural and plates.

Q. But you do not know the price at which you contracted?

A. No, I do not.

Q. From whom did you get quotations in that year other than from the Illinois Steel Company?

A. It is my recollection that we had quotations from the Eastern Steel Company on shapes; we had quotations from Jones & Laughlin; that we bought some plates of Worth Brothers, Lukens Iron & Steel Company; some bars of the International Harvester Company.

Q. Now, Mr. Worthington, I did not ask you if you bought any bars or plates from anybody else. I asked you about this particular contract that you made with the Illinois Steel Company, which covered more than 50 per cent. of your requirements, when you negotiated or were negotiating that contract, from whom you got the bids for what was covered in that contract, the tonnage and the character of commodity; will you confine your answer to that?

A. I could not remember.

Q. Well, take 1905-1906: Did you have a contract that year with the Illinois Steel Company?

A. I think we did, yes, sir.

Q. Made about the spring of the year?

A. Yes, sir.

Q. Do you know the contract price?

A. No.

Q. Do you know the market price?

A. No.

Q. Do you know from whom you got quotations on that tonnage or what was covered by that contract?

A. This is the year?

Q. 1905-1906.

A. No, I do not recall.

Q. Or what the quotations were?

A. No, sir; I do not recall.

Q. Is there any market level in the way you have used that term heretofore on bars now?

A. No, sir; there is not. It is a bad market now.

Q. What do you mean by a bad market?

A. I mean that the demand for steel, that is bars, structural and plates is very limited, and I do not think that anyone knows from one day to the next what price will be made; prices have been descending steadily for 60 days.

Q. And you call that a bad market, do you?

A. It is bad for all of us.

Q. A market level and the maintaining of a market level, describe that?

A. When general business is brisk and there is a good demand there is a market level; that is, there is a price that stands for months at a time.

Q. Or more?

A. Or more.

Q. That has been the case, has it, frequently, throughout this time that you have been speaking of, these years?

A. Yes, it has.

Q. What percentage of your requirements is in bars, and what percentage in structural and what percentage in plates?

A. I should estimate that there would be 40 per cent. bars, 40 per cent. shapes and 20 per cent. plates.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Worthington, this market price or level is what is published in the trade papers; when you are speaking of the ruling market price, is that what you mean?

A. It is generally published in the trade papers.

Q. It appears from your testimony as I understood it that that is not the price at which you ever bought under any of these contracts; they have always been made at a different

price from the published price in the trade papers; has that been your experience?

MR. DICKINSON: I object to this because it is leading and because——

MR. SEVERANCE: That objection is good. It is sustained.

MR. DICKINSON: Wait a minute.

MR. SEVERANCE: I will withdraw the question.

MR. DICKINSON: I want to get my objection.

MR. SEVERANCE: I object to your objecting any further as long as I have withdrawn the question. You have nothing to object to.

MR. DICKINSON: Yes, I have.

MR. SEVERANCE: All right, go ahead.

MR. DICKINSON: Because the question is in the witness' mind.

MR. SEVERANCE: All right, go ahead.

MR. DICKINSON: I think I have a right to finish. (Continuing:)——and also on the ground that I think that counsel is mistaken in stating that the witness has said that he never bought at the quoted market price.

By MR. SEVERANCE:

Q. Mr. Worthington, were any of the contracts concerning which you have been interrogated by Judge Dickinson at such length this afternoon, beginning in 1913, and running back, made at the price that you have spoken of as the ruling price, meaning the one quoted in the trade papers; that is, haven't they always been made at a different price?

MR. DICKINSON: That is objected to because it is leading.

THE WITNESS: It is my recollection that the contracts have always been made at a less price than the market level.

By MR. SEVERANCE:

Q. You say that at the present time there is what you call a bad market; was that your expression?

A. Yes, sir.

Q. Just what do you mean by that?

A. I mean that the demand for bars, shapes and plates is very limited.

Q. Oh, that is what you mean?

A. Yes, and results in the different mills falling over each other to get what little business there is going. May I ask the date or the year of that contract that you wanted me to send to Mr. Severance?

MR. DICKINSON: I will waive that. You may enter on the record the witness is excused from producing that contract.

RALPH K. WEBER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Weber, where do you live?

A. Mt. Vernon, Illinois.

Q. What is your business?

A. Vice president of the Mt. Vernon Car Manufacturing Company.

Q. What is the business of the Mt. Vernon Car Manufacturing Company?

A. Builders of freight cars.

Q. Do you build steel cars or wooden cars?

A. Both.

Q. What is your capacity?

MR. DICKINSON: You mean in both or separate?

By MR. SEVERANCE:

Q. Give them separately.

A. From 26 to 28 cars a day for steel, and the same capacity in wood.

Q. That is, your total capacity is a little over fifty cars?

A. No, I would not say that. We could not build fifty a day at the same time; we could run 26 or 28, one or the other.

Q. At the present time and for some time past what have you been building the most of?

A. Steel cars mostly.

Q. For how many years?

A. About two and a half to three years.

Q. Did you only commence building steel cars that long ago?

A. Yes, sir.

Q. How long have you been in the business?

A. Our business was established in 1890.

Q. How long have you been connected with it?

A. Ever since it was established.

Q. Previous to the time you commenced building steel cars, did you have certain steel requirements in connection with your wooden cars?

A. Yes; to a limited extent.

Q. Of what character were those?

A. We used structural shapes, plates and bars.

Q. Do you purchase any pipe?

A. Yes, sir.

Q. What is that used for?

A. It is used for air application of brakes.

Q. And was that used by you in making wooden cars, the same as for steel cars?

A. Yes, sir.

Q. Have you purchased axles, or do you make them?

A. We purchase axles.

Q. Do you purchase nails?

A. Yes, sir.

Q. Do you purchase or make your own wheels?

A. We make our own wheels.

Q. Do you sell wheels in the market?

A. We do, yes.

Q. Do you buy wheels also?

A. Not unless it is something besides a cast iron wheel that has to be used. We make only cast iron wheels.

Q. You do not make steel wheels?

A. We do not.

Q. Do you use some steel wheels?

A. Yes, sir; we have used some steel wheels.

Q. What is the custom of the railroads in purchasing cars; do they specify the kind of wheels that shall be used?

A. They do; yes, sir.

Q. Is your business one that is governed by competitive bids or otherwise?

A. By competitive bids; yes, sir.

Q. What are the companies manufacturing cars that you have, for the last ten or twelve years, met in competition?

A. What other car building concerns, you mean?

Q. Yes.

A. The American Car & Foundry Company; the Haskell & Barker Company; the Pullman Company; the Pressed Steel Car Company; the Standard Steel Car Company; the Ralston Steel Car Company; the Cambria Steel Company.

Q. Do all of those companies make steel cars now?

A. Yes, sir.

Q. Some of them never made wooden cars, did they?

A. I think some of them did, yes.

Q. I say, some of them did not? Some of them, I know, did; but others did not?

A. That is right.

Q. The Cambria never made wooden cars, for instance?

A. No, sir.

Q. You did not mention Barney & Smith?

A. I should have mentioned them. They belong in that category.

Q. Since you have commenced making steel cars, what steel requirements have you in addition to those you had before; that is, what steel purchases do you have to make, other than those you made before?

A. We do not make steel purchases for other than the classification I gave you, except that we make them in larger quantities.

Q. It is the same thing, only in larger quantities?

A. Yes.

Q. Very much increased quantities?

A. Yes, sir.

Q. What has been your practice in the last twelve years—

I am going back to twelve years ago, to the year the Steel Corporation was formed—in buying your steel requirements; have you done it under contract or in the open market, or both?

A. Until two and a half years ago we bought in the open market, by sending out inquiries of our requirements to the various steel mills and asking for quotations.

Q. What have you done in the last two and a half years?

A. We have made some contracts in the last two and a half years, and those were made in the same manner.

Q. That is, you have always made your purchases after getting quotations?

A. Yes, sir.

Q. How, generally, have you invited quotations?

A. By asking pretty nearly all the people that make steel for prices that we know of.

Q. What has been your experience in the last twelve years in getting responses to these inquiries? Have the prices quoted you been uniform or varying?

A. They have varied.

Q. Which ones of the subsidiaries of the United States Steel Corporation have you bought from, if any?

A. The Carnegie Steel Company; the Illinois Steel Company; the National Tube Works; the American Steel & Wire Company, and the American Sheet & Tin Plate Company.

Q. What proportion, if you can tell, of your requirements in tubes have you bought from the National Tube Company?

A. I think less than one per cent.; only a small quantity.

Q. What class of material have you bought from the American Steel & Wire Company?

A. Nails.

Q. What per cent., if you can tell, of your requirements of nails have you bought of the American Steel & Wire Company?

A. That has been very small; not over one per cent. to one and a half per cent.

Q. What is the character of the material you have bought from the Carnegie Steel Company?

A. We have bought plates, structurals, axles.

Q. And what percentage of your plates and structurals have you bought from the Carnegie Company?

A. About three and a half per cent. only.

Q. Did you buy anything from the Illinois Steel Company?

A. Yes.

Q. Largely?

A. Yes.

Q. About what per cent. of your requirements in plates, bars and structural have you bought from the Illinois Steel Company?

A. I should say about 50 per cent.

Q. In buying from Carnegie this three and a half per cent. of which you spoke, who acted as the agent of the Carnegie Company?

A. Their sales manager at St. Louis, Mr. Weston.

Q. Did he also represent the Illinois Steel Company?

A. Yes.

Q. Did he solicit that business for the Carnegie Company or for the Illinois Company, if you know?

A. For what business we placed with the Carnegie he solicited for the Carnegie.

Q. He did solicit for Carnegie?

A. Yes.

Q. What else did you buy of Carnegie, aside from steel plates and bars and structurals?

MR. DICKINSON: Axles, he said.

THE WITNESS: Axles, yes.

By MR. SEVERANCE:

Q. What percentage of your requirements in steel axles, if you know, have you bought from the Carnegie Company?

A. That has been small; less than two and a half per cent., I should say.

Q. Have you bought any axles from the Illinois Steel Company?

A. Yes.

Q. Can you give an idea about what percentage of your requirements you have bought from it?

A. I should say between 10 and 12 per cent.

Q. Have you made your purchases of these various classes of steel products on a competitive basis?

A. Yes.

Q. Always?

A. Yes, always.

Q. Taking up these various lines that you bought, from whom have you bought pipe? You say you bought a very small amount from the National Tube Company; from whom else have you bought it?

A. I bought a great deal of pipe from jobbers; N. O. Nelson Manufacturing Company at St. Louis, the E. H. Lindley Supply Company, of St. Louis; Knight & Jillson, of Indianapolis, and, from the manufacturers, I have bought from Spang-Chalfant & Company, of Pittsburgh, the Central Tube Works, of Pittsburgh, and the Western Tube Company of Kewanee.

Q. That is now owned by the National Tube Company?

A. That is now owned by the National Tube Company, but our purchases have been made from them before the National Tube Company acquired that property. I think we have bought some pipe perhaps from the Crane Company, small quantities; they are jobbers. I think those are the principal concerns that we have bought from.

Q. Have you ever bought anything from LaBelle?

A. Yes, we have bought a great deal of pipe from LaBelle in the last few years.

Q. Have you bought any from the Mark people?

A. Yes, from the Mark people, Chicago; they are pipe manufacturers.

Q. You have bought a great deal from them?

A. We have bought a great deal from them, yes.

Q. From which class have you bought more largely, from the manufacturers or from the jobbers?

A. I think from the manufacturers, perhaps.

Q. Can you state the names of the companies outside of the Carnegie and the Illinois Steel Company from whom you bought bars? Do you buy structural from the same people from whom you buy bars?

A. Sometimes, yes; usually the people that roll structural also roll bars.

Q. Then I will ask you from whom you bought bars and structurals; bunch those two?

A. Jones & Laughlin, Lackawanna Steel Company, Inland Steel Company, Republic Iron & Steel Company and the Ohio Falls Iron Company.

Q. Where are they located?

A. They are at New Albany, Indiana; and the Interstate Iron & Steel Company, Chicago; the Wisconsin Steel Company of Chicago. Those are the principal ones that I can call to mind.

Q. Have you bought bars and structural from LaBelle?

A. No, they do not make bars and structural.

Q. From whom have you bought plates?

A. Jones & Laughlin, Cambria Steel Company, Lackawanna Steel Company, Inland Steel Company, Portsmouth Steel Company, United Steel Company of Canton, Ohio; La Belle Iron Works of Steubenville. Those are the principal concerns that I recall.

Q. Have you bought any plates from either Worth or Lukens at any time?

A. No, we have not.

Q. From the Eastern Steel Company of Pottsville?

A. The Eastern Steel Company, of Pottsville, yes.

Q. From whom outside of Carnegie or the Illinois Steel Company have you purchased car axles?

A. The Standard Forgings Company, of Chicago; Pollak Steel Company, of Cincinnati; the St. Louis Steam Forging & Iron Works; the Willard Sons & Bell Company of Chicago; Louisville Forge Company, of Louisville, Kentucky. Those are the principal concerns that I recall.

Q. From whom have you bought nails, outside of the American Steel & Wire Company?

A. The Illinois Nail Company, of Chicago; the Kokomo Steel Company, the Crawfordsville Wire & Nail Company, the Norton Iron Company, of Ashland, Kentucky. Then through some jobbers like H. L. Green & Company, of Chi-

cago, and Hibbard, Spencer, Bartlett & Company of Chicago; the Simmons Hardware Company of St. Louis in small quantities.

Q. Have you ever bought any from Jones & Laughlin?

A. No, I do not recall that we have.

Q. Outside of the companies from whom you have bought has your business at any time been solicited by other concerns in the nail business, or don't you recall?

A. Yes; I think our business has been solicited by some jobbers and some few manufacturers other than those I have named.

Q. Has your business in car axles ever been solicited by any other concerns than the ones you say you have bought from?

A. Yes.

Q. By whom?

A. By J. R. Johnson & Company, of Richmond, Virginia.

MR. DICKINSON: This is car axles, now?

THE WITNESS: Axles, yes; and the Cleveland City Forge & Iron Company, of Cleveland, Ohio; the Pittsburgh Forge Company, of Pittsburgh; the Pittsburgh Forge, Iron & Steel Company, of Pittsburgh, and the Cambria Steel Company at Johnstown.

Q. Have your requirements in pipe ever been solicited by any concerns other than the ones from whom you have purchased?

A. Yes; there have been a number of jobbers that have solicited our inquiries and orders, possibly some few manufacturers also that we have not purchased from.

Q. Are there any manufacturers or others who have solicited your business in steel plates or bars or structural other than the ones that you have named from whom you have purchased?

A. In plates particularly; yes, sir.

Q. Who are they?

A. There was the Lukens Iron & Steel Company, Worth Brothers; there are a number of others that I cannot call to mind just now.

Q. Do you remember any who solicited your business in bars and structural?

A. There is the Republic Iron & Steel Company that can go in that list of plates too. No, on structurals and bars I have given you about all of the manufacturers that can reach us on that.

Q. You say you have been receiving quotations from nearly all the people in the business?

A. Yes, sir.

Q. Have you taken the trade papers?

A. Yes, sir.

Q. Have you observed the prices quoted in the Iron Age from time to time?

A. Yes, sir.

Q. The Iron Trade Review?

A. Yes, sir. We look those over every week.

Q. Do you find that the prices that are quoted to you by the people who are endeavoring to sell you goods are identical with the ones in the trade papers?

A. They are not, no, sir; not identical.

Q. You regard the trade papers as of some value, do you not?

A. Yes, sir.

Q. For what purpose?

A. It gives us a general idea of the trend of the market and the condition of the market, and gives an approximate base to work on.

Q. Where is your market: where do you sell your cars, Mr. Weber?

A. We sell railroads that run into Chicago and St. Louis. I might say lines that operate in the middle west.

Q. Do you know about what your annual tonnage requirements are in steel at the present time?

A. I think on a full year's business we would use from 60,000 to 75,000 tons a year.

Q. Has there been anything in the manner in which prices have been quoted to you by the different persons endeavoring to sell you steel in the last twelve years that indicated any understanding or agreement on prices between the parties?

A. I think not; no, sir.

Q. How is the quality of the steel that you are getting now compared with the quality years ago?

A. It is better.

Q. How is it as to uniformity now as compared with what it was formerly?

A. It is better.

Q. What steel wheel companies are there in the market that you purchase from, that offer to you quotations?

A. On steel wheels?

Q. Yes.

A. There is the Carnegie Steel Company and the American Steel Foundries Company, the Railway Steel Spring Company and the Standard Steel Car Company. Those are the principal ones. There may be others that make steel wheels that I do not know about.

Q. Do you have to buy these, or do the railroads buy them?

A. They usually have a type of a wheel specified that they want used, and sometimes they elect to buy them and they retain that privilege if they so wish. We defer to their wishes in the matter. If they wish to buy them all right; if they do not, we buy them.

Q. Do they specify steel wheels generally if they want certain makes from a certain mill?

A. It has not been our experience that they have specified steel wheels generally.

Q. That is, they have specified a certain make, have they?

A. Where they have specified at all, yes.

Q. What do you do in that case in the way of getting quotations?

A. We ask the concern whose wheel is specified for a price. If they specify a Carnegie rolled wheel, for instance, we ask the Carnegie Company for a quotation, and we use that in our estimates, and then we give the railroad company an allowance on them if they want to furnish them.

Q. In that case, if there is a distinct specification of one make, of course you cannot get competitive bids.

A. That is it exactly.

Q. Do you usually take bids on your requirements of various kinds and get options or something of that sort before you make your own bid for cars?

A. It is usually understood that if a quotation is made to us for a particular contract that that quotation is held open until the contract is disposed of.

MR. DICKINSON: I do not think he has answered the question.

By MR. SEVERANCE:

Q. I say, when, for instance, you are asked to bid on building 500 cars, we will say, for a railroad——

A. For some particular road?

Q. For some particular road, yes. Before you make your bid do you cover your requirements?

A. Surely.

MR. SEVERANCE: That is all.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Take this year: What railroads have specified the kind of wheels that they want, and what roads have not?

A. There have been only two railroads that we have had inquiries from that have specified steel wheels. One of those roads was the E. J. & E., who were in the market the early part of the year for several thousand new cars. The other railroad was the Louisville & Nashville, to specify a steel wheel.

Q. I am not asking about a steel wheel. I am asking you what railroads this year, when they ordered cars from you specified the kind of wheel that was to be used?

A. You mean railroads that we have sold cars to?

Q. Yes.

A. One, the Louisville & Nashville.

Q. What wheel did they specify?

A. American Steel Foundries, known as their Davis wheel.

Q. What other railroad companies have you contracted with this year?

A. With the Atlantic Coast Line, Baltimore & Ohio, Grand Rapids & Indiana, Illinois Central, Norfolk & Western, Montana, Wyoming & Southern; Southern Railroad. Those are the principal roads that I recall that we have sold to this year.

Q. Did none of them make any specifications as to any kind of wheel?

A. Simply for a cast iron wheel.

Q. Those were cast iron?

A. On those cars that I have given you.

Q. All the cars you have built this year for those companies you have named have been cast iron except those furnished to the Louisville & Nashville, and they specified the particular kind of steel wheels?

A. Yes, sir.

Q. Then, so far as steel wheels are concerned this year, you have not bought any of them in competition?

A. No, sir.

Q. Take last year and answer how many and what steel wheels you bought in competition.

A. None.

Q. The year before?

A. None at all.

Q. The year before?

A. None at all.

Q. The year before?

A. None at all. This is the first we have ever used in these particular Louisville & Nashville cars.

Q. You have been in this business more than twelve years, have you?

A. Yes, sir.

Q. How long have you had to do with the question of purchasing these various kinds of commodities which you have spoken of in your direct examination?

A. Since 1905.

Q. Your knowledge of prices and quotations and competition with respect to the articles as to which you have testified is only since 1905, is that correct?

A. I cannot say that I had no knowledge of prices and quotations prior to that time, because I did, but I have been

more closely identified with the purchasing end of our business since 1905 than prior.

Q. I did not mean to say you were totally ignorant on the subject. I did not mean that, but what I mean to say is that in your testimony that you have given, where you have spoken of prices and quotations which you got and competition I want to know what period of time you meant your answer to apply to.

A. From 1901 up to the present time.

Q. And so you say, then, that from 1901 to 1905 you were purchasing the various kinds of commodities you have described here?

A. I was not purchasing for our company during those years. I was not, but I had a knowledge of what was going on, and handled it under the direction of others.

Q. You were with this company?

A. Yes.

Q. You had a purchasing agent?

A. Yes, sir.

Q. He had control of the question of purchasing, did he?

A. Yes.

Q. What position did you hold?

A. I was simply a clerk in the office then; chief clerk of the clerical force.

Q. And do you know now all the prices and contracts he made from 1901 to 1905 and what transactions he had and what negotiations he had in that time?

A. Yes, sir.

Q. You say that from 1901 down to the present time you know of nothing which would indicate any sort of an agreement as to prices in respect of any of these commodities you have been testifying about?

A. Nothing whatever.

Q. Nothing whatever?

A. No.

Q. Did you ever hear of a plate pool?

A. I suppose I would say that I have heard of such a thing.

Q. Oh, you have heard of it?

A. I have seen it in the newspapers.

Q. If there were a plate pool, and if such a pool had in it the leading manufacturers, would you say that that would not affect your opinion one way or the other as to the question of control of prices?

MR. SEVERANCE: I object to that as purely speculative.

MR. DICKINSON: We will see whether it is speculative or not.

MR. SEVERANCE: Also as incompetent.

MR. DICKINSON: Maybe I will get closer before I finish.

THE WITNESS: I would like to have the question read.

(The stenographer repeated the question as follows:)

"Q. If there were a plate pool, and if such a pool had in it the leading manufacturers, would you say that that would not affect your opinion one way or the other as to the question of control of prices?"

THE WITNESS: I don't think it would; no, sir.

By MR. DICKINSON:

Q. What do you think a pool is?

A. I should say that a pool was an agreement, a gentlemen's agreement, to maintain prices.

Q. Then you think that if there was such an agreement to maintain prices, that that would not indicate any agreement to control prices?

MR. SEVERANCE: I object to that as not cross examination, and as incompetent.

THE WITNESS: I don't think there was such an agreement.

By MR. DICKINSON:

Q. I am not asking you whether you thought there was or not. I am asking you if you heard there was.

A. I have heard such talk, yes.

Q. Was it not common talk in the papers all the time from 1901 to 1905, and was not every man engaged in your line of business who was the least well informed affected with knowledge of that fact?

MR. SEVERANCE: I object to that. How in the world can he know whether every man——

MR. DICKINSON: Wait a minute. We will see——

MR. SEVERANCE: One moment, Judge. I have a right to say something. Just wait and let me finish.

MR. DICKINSON: I understand; but if you will excuse me, I do not object to your objections, but——

MR. SEVERANCE: Then let me make my objection.

MR. DICKINSON: But when you argue with the witness, and say "How can he know," I object to that. I do not object to any objections you want to make to my question.

MR. SEVERANCE: If you will wait, I will put in an objection, then; if you will not interrupt me.

MR. DICKINSON: I do interrupt you when your remark is not addressed to the record, but to the witness and——

MR. SEVERANCE: I am not addressing any remark to the witness, and did not think of doing so.

MR. DICKINSON: You did, and it is bound to affect him.

MR. SEVERANCE: Why do you get so excited, when it is not necessary?

MR. DICKINSON: You may be excited, but I am not.

MR. SEVERANCE: You are quite excited, Judge, and I am not.

(By request, the stenographer read the last question as follows:)

"Q. Was it not common talk in the papers all the time from 1901 to 1905, and was not every man engaged in your line of business who was the least well informed affected with knowledge of that fact?"

MR. SEVERANCE: How in the world can the witness know what every other man's opinion or knowledge was? I object to the question as incompetent. It is asking for what is in the minds of everybody in a certain trade.

(By request, the stenographer again read the pending question.)

By MR. DICKINSON:

Q. Now make whatever answer you want to make to that question.

A. Yes, sir. I presume that all of us engaged in the purchase of steel during that period of time were more or less familiar with the gossip that was going around about a pool.

Naturally those who were reading the newspapers would see that.

Q. Was not that common gossip from 1901 to 1905?

A. I could not say that it was common gossip. I do not know as to that.

Q. I mean, among people in your line of business?

A. Oh, you would hear it talked around. Whether it was talked enough to warrant using the word "common" in connection with it, I could not say.

Q. Was it not published in the trade papers frequently, during that time, and pools spoken of, and pool prices and prices fixed by pools?

A. Perhaps so.

Q. I am asking if you do not know that it was. Didn't you read it?

A. Yes; I read such statements.

Q. Did you not read it frequently, from 1901 to 1905?

A. Perhaps I did; yes, sir.

Q. Well, didn't you?

A. Yes, sir.

Q. How about structural pools? Didn't you read, during the same time, about structural pools in the same way?

A. That would apply the same as to plates, yes.

Q. Did you not read in the trade papers about meetings of manufacturers, following those structural pools, and prices announced in the papers having been fixed at such meetings?

MR. SEVERANCE: I want to make another objection to this entire line of questioning as not cross examination. He was not asked as to whether he had any knowledge or had heard anything about anything of that sort. There was no question put to him on direct examination that makes this at all relevant.

MR. DICKINSON: The witness was asked if he had ever seen any indication at all that there was any agreement as to prices.

MR. SEVERANCE: No; the question was whether in receiving bids he saw any indication.

(By request, the stenographer read the pending question as follows:)

"Q. Did you not read in the trade papers about meetings of manufacturers, following those structural pools, and prices announced in the papers having been fixed at such meetings?"

THE WITNESS: I have no recollection whatever of having seen such a published statement as that.

Q. Well, now, some question has been made as to what you testified as to indications of pools. Now I will ask you whether or not on your direct testimony you meant to say that you had seen or knew of nothing that would indicate that at any time during the last ten or twelve years there had been any agreement or any control of prices. Now, did you mean to say that or not?

A. Yes, I mean to say that, so far as I know.

Q. Well, I am not asking you if you say it now, but I am asking you if that is what you meant on your direct testimony?

A. Yes, sir.

MR. DICKINSON: Then I think what I am saying is perfectly competent, if he meant that.

MR. SEVERANCE: No, I asked him if in those bids he has seen anything indicating an agreement on prices.

By MR. DICKINSON:

Q. Now, I will ask you whether you meant to say that only judging from what you saw in the bids made to you there was no indicating of control of prices, or whether you meant to say that throughout this period you knew of nothing that would indicate that there had been an agreement as to prices. Now, which did you mean?

A. There was nothing in any bids that I had received on our inquiries indicating any fixed prices on material.

Q. Is that all you meant to say?

A. And I think I can go farther and say that I know——

Q. (Interposing) I am not asking you what you can do, but I am asking you what you meant in your answers before.

A. I meant to answer the question only.

Q. Answer that question only?

A. Yes.

Q. And you have not meant to state, on your direct examination—I am not speaking of my cross examination—anything in respect of any agreement or control of prices other than what might have appeared to you from the bids you received; is that correct?

A. That is correct. I was simply trying to answer the question that was put to me.

Q. I am asking you if that is correct?

A. That is correct.

Q. Now, in the year 1913 what proportion of all your requirements in every line of steel commodities was purchased by your company of the subsidiaries of the United Steel Corporation?

A. In this year?

Q. Yes.

A. Well, I should say about 75 per cent., as near as I can gauge it.

Q. Take the calendar year 1911; what proportion of all your requirements in all the commodities you bought of steel products have been bought from the subsidiaries of the United States Steel Corporation?

A. Well, I should say not over 50 per cent. in that year.

Q. Well, was it as much as 50 per cent.?

A. As near as I can say, yes; I cannot give you the exact figures, but I should say around 50 per cent.—about half.

Q. Now, I will ask you about 1912, what percentage of all your requirements of steel products did you buy of the subsidiaries of the United States Steel Corporation?

A. I think my answer given to the previous question should apply to 1912 instead of 1911.

Q. Well, then, answer for 1911.

A. Well, I should say for 1911 we did not buy over 25 to 30 per cent.

Q. Now, in 1913 you say you have bought 75 per cent.?

A. I should judge so, yes.

Q. How many contracts have you made this year with the subsidiaries of the United States Steel Corporation, and which ones, and for what commodities? Just state it separately?

A. We made one contract this year, I think, the early part of the year, for 10,000 tons.

Q. With what company?

A. The Illinois Steel Company.

Q. Have you made a contract with any other of the subsidiaries?

A. No, sir.

Q. Have you made any purchases from any other subsidiaries not covered by this contract?

A. Well, I think perhaps we have.

Q. State what companies they were and the tonnage of each.

A. In any of the steel products that the subsidiaries of the Corporation make, you mean?

Q. Yes.

A. Well, I think we bought one carload of pipe or tubes from the National Tube Company this year.

Q. Very well, go on.

A. During the early part of the year, possibly in January, we purchased probably around 1,500 tons of structural and plates on the open market without a contract, to cover our requirements.

Q. From whom did you buy that?

A. The Illinois Steel Company.

Q. Any others?

A. No, sir; I think not.

Q. Did that make 75 per cent. of your requirements for 1913?

A. I think we had some contracts that were placed, or some tonnage bought in 1911 that hung over into 1913, that we did not use.

Q. You mean you did not use it in 1912?

A. We didn't use it in 1912.

Q. And you used it in 1913?

A. Yes.

Q. And that brought it up to the 75 per cent.?

A. Yes; that is the idea.

Q. Now, coming back to 1912, with what subsidiaries of

the United States Steel Corporation did you contract in that year, and for what and what tonnage?

A. I do not think we made a single contract in 1912 for steel with the Corporation at all; we bought on the open market as we needed it.

Q. From what subsidiaries of the Corporation in 1912 did you buy, and what did you buy, and what tonnage?

A. In 1912? Well, we bought from the Illinois Steel Company; I cannot give you the tonnage; I don't know; I don't remember.

Q. Well, whom else did you buy of?

A. Other than the Corporation, you mean?

Q. No; you bought from the Illinois, and I am asking from what other subsidiary of the Steel Corporation you bought in 1912?

A. I think none.

Q. And you cannot give the tonnage from the Illinois?

A. No; I cannot give the tonnage.

Q. How much tonnage in all these products did you use in 1912?

A. I do not know; I could not tell you.

Q. How much would be your requirements for 1913?

A. For the whole year? I presume this year our requirements would be—I do not know; between 30,000 and 40,000 tons, I should say.

Q. Now, what you brought over from 1912 and used in 1913 from subsidiaries of the corporation, that brought you up to 75 per cent. of your requirements for 1913, how much of that was covered by contracts?

A. I do not think we had a contract in 1912 at all.

Q. What was it that you brought over, material that had been already delivered?

A. No, sir; material that we had bought for building certain cars which were not built until 1913; for instance, we might make a contract, say in October, or early in 1912 for 500 to 1,000 or 1,500 cars, and we would not reach them that year; we would get into it this year and build them this year instead of last year.

Q. Were those contracts not written?

A. The steel for those particular contracts was bought.

Q. How was it bought; under written contracts?

A. Yes, sir; you would call it on written contracts; it was specified tonnage to cover a particular requirement.

Q. And that was a written contract?

A. Yes, sir.

Q. Then you did have written contracts for 1912 to deliver in 1913, did you?

A. Yes, sir. I probably have not made myself clear as to just exactly what I had in mind on a contract.

Q. I will give you an opportunity now of making yourself clear.

A. Perhaps, say for this year, the early part of this year, we would estimate our requirements to be say about 20,000 tons of steel, we would buy that steel on a contract to be specified later and shipped as we needed it during the year. But in 1912 we did not make our contracts in that way. If we went out and sold 500 to 1,000 or 1,500 cars we would buy the tonnage for that particular job and still it could be termed a contract. I had in mind an unlimited quantity of tonnage against which we would not specify.

Q. Taking it that way, you have explained it now?

A. Yes, sir.

Q. Of all of your purchases that you made in 1912, including every variety of agreement, either a general contract or a special contract or purchases on the market, how much in that year did you buy of your requirements, what percentage from subsidiaries of the Steel Corporation?

A. I think I gave that in answer to a previous question, 25 to 30 per cent.

Q. That is in 1912?

A. In 1912. It was 75 per cent. in 1913; 50 per cent. in 1912. About 50 per cent., as near as I can judge; that is correct, 50 per cent. In 1911 it was 25 to 30 per cent.

Q. How were your purchases in 1911? Did you have any general contract that year?

A. No, sir; not for an unspecified lot of iron and steel.

Q. Not at all?

A. No, sir; we bought to cover special requirements.

Q. How many contracts that year did you make for special requirements in 1911?

A. I don't know.

Q. From how many different concerns did you purchase that year?

A. In 1911?

Q. Yes; who were they?

A. La Belle Iron Company, of Steubenville, was one; Jones & Laughlin Steel Company; the Wisconsin Steel Company; Interstate Iron & Steel Company; Ohio Falls Iron Company.

Q. Is that all?

A. The Portsmouth Steel Company; those are all the ones I can recall.

Q. I will ask you to go over in your mind and be sure that is all that you can recall, so far as you can now answer.

A. As far as I can now answer, that is all the names I can recall.

Q. And so far as you now know, you made no purchases in 1911 from any other concerns except those that I have named.

A. Not that I recollect now.

MR. SEVERANCE: Does that include the Corporation or outside the Corporation?

MR. DICKINSON: I did not say anything about the Corporation or outside the Corporation. I asked all he bought from.

THE WITNESS: I understood your question to be from mills outside of the Corporation.

MR. DICKINSON: Read the question and the answer.

(The stenographer thereupon read the following questions and answers:)

"Q. How many contracts that year did you make for special requirements in 1911?

"A. I don't know.

"Q. From how many different concerns did you purchase that year?

"A. 1911?

"Q. Yes; who were they?

"A. La Belle Iron Company, of Steubenville, was one; Jones & Laughlin Steel Company; the Wisconsin Steel Company; Interstate Iron & Steel Company; Ohio Falls Iron Company.

"Q. Is that all?

"A. The Portsmouth Steel Company; those are all the ones I can recall.

"Q. I will ask you to go over in your mind and be sure that is all that you can recall, so far as you can now answer.

"A. As far as I can now answer, that is all the names I can recall.

"Q. And so far as you now know, you made no purchases in 1911 from any other concerns except those that I have named?

"A. Not that I recollect now."

THE WITNESS: I would like to change that answer.

MR. DICKINSON: You can't change that answer now. You can put in any addition afterwards, if you want to.

MR. SEVERANCE: You can give any explanation you want to right now.

THE WITNESS: I would like to add the Illinois Steel Company.

MR. SEVERANCE: These questions and answers having been read over to you, if you want to make any explanation you are at liberty to do so.

THE WITNESS: I want to add the name of the Illinois Steel Company and the Carnegie Steel Company to this list of mills that I have given you.

By MR. DICKINSON:

Q. In 1911 how many different purchases did you make from the Carnegie Steel Company and how many from the Illinois Steel Company?

A. I could not answer that, Judge; I don't know how many different purchases.

Q. What tonnage did you buy from the Carnegie Steel Company?

A. I could not answer that.

Q. What tonnage did you buy from the Illinois Steel Company?

A. I could not answer that.

Q. What tonnage did you buy from the La Belle Company?

A. I could not answer that for 1911.

Q. What tonnage did you buy from Jones & Laughlin?

A. I could not tell you; I don't know.

Q. Could you give the tonnage that you bought from the Wisconsin, the Interstate, the Ohio Falls Iron Company or the Portsmouth?

A. I cannot; no, sir.

Q. Take 1910; from whom did you buy any of the steel commodities about which we have been talking?

A. (No answer.)

(Whereupon an adjournment was taken until to-morrow, Friday, December 12, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-NINTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Friday, December 12, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

RALPH K. WEBER,

the witness under examination at the taking of adjournment, resumed the stand.

CROSS EXAMINATION (Continued)

By MR. DICKINSON:

Q. Before you began to build steel cars, which was about two and a half or three years ago, I understood you to say, what were your requirements per annum of the kind of steel products such as you bought from the subsidiaries of the United States Steel Corporation?

A. I do not suppose we used over 4,000 to 5,000 tons a year up to two years and a half ago.

Q. Now, running back to 1901, what was it in 1901?

A. The tonnage that we bought that year?

Q. Well, approximately, yes.

A. I don't know; I could not tell you; I would not undertake to answer that.

Q. What is the nearest year you could answer it for back of three years?

A. I would not undertake to answer as to the tonnage back of 1910.

Q. Not even approximately?

A. No, sir.

Q. Now take, say twelve years. Can you state from whom you bought these various kinds of steel products in that year?

A. I could give you a list of our customers that we have traded with during that period, many of them.

Q. During that period of time?

A. During the last twelve years.

Q. I mean the year which would be twelve years ago; I do not mean during the whole period of time. Take twelve years ago. That would be 1901, do you know from whom your company bought that year?

A. I know we bought some from the Carnegie Steel Company.

Q. How much?

A. I don't know.

Q. Whom else do you know you bought from?

A. Jones & Laughlin.

Q. Do you know how much?

A. I do not.

Q. From whom else? Just go on and tell those you know you bought from; I mean what you know; I am not speaking of your general custom, but those you remember you bought from, if you do.

A. Republic Iron & Steel Company. I do not know how many tons we bought. I do not recall any other concerns that I could mention right now. Our requirements were very small in those times and we did not use much steel.

Q. I am not speaking of those times, I am speaking of 1901; I do not want any other time.

A. Our requirements were so small that I do not remember the tonnage or from whom we bought.

Q. Do you remember anything of the prices that year, on what you bought, what the bids were? Do you carry in mind anything about that?

A. No, sir; I could not tell that.

Q. Do you carry anything in your mind in respect to that back in 1901?

A. No.

Q. You do not carry anything in your mind about the prices and their relation to each other and who made them, and from whom you bought and the tonnage back of 1910?

A. Except in a general way, that there were variations in prices.

Q. You do not know how many were alike and how many were unlike, or what the relations were?

A. No, I couldn't answer those questions.

Q. Is that true of all these products?

A. Yes.

Q. Suppose I asked you the same question for 1911? What would your answers be?

A. I could give you perhaps the names of concerns that we bought from in 1911 in part, that I can call to mind readily, and can probably give you pretty close to the tonnage we used during that time, but I could not tell how many tons I bought from each individual company that we traded with.

Q. Can you tell anything about quotations on each particular purchase and who made them?

A. No, sir; I would not undertake to say that.

Q. Nor their relation to each other?

A. Except that there was a difference in price; that is all I can say.

Q. There was some difference in price?

A. There was some difference in price.

Q. But how many were different and what the difference was you could not tell?

A. No, sir; I could not.

Q. How about 1912?

A. I can give you perhaps some information as to our experience in 1912.

Q. Take the first contract which you made for any large quantity, if you did make any in 1912, and state with whom you made it and the time and from whom you took bids, and what relation those bids bore to each other.

A. Well, we took prices on steel in 1912 from the Illinois Steel Company, Carnegie Steel Company, the Lackawanna

Steel Company, Inland Steel Company, Portsmouth Steel Company, United Steel Company, Phoenix Steel Company and the Eastern Steel Company. Those are the principal ones I have in mind.

Q. Now, what did you understand me to ask you when you answered that?

A. From whom we had taken prices on steel during 1912.

Q. No, I never asked you that at all. I will ask to have the question read.

(The stenographer repeated the question as follows:)

"Q. Take the first contract that you made for any large quantity, if you did make any in 1912, and state with whom you made it and the time and from whom you took bids and what relation those bids bore to each other."

THE WITNESS: From whom we took bids?

By MR. DICKINSON:

Q. I asked you to state, if you could, the first large contract, and in respect of that contract; I never asked you generally from whom you got bids in that year. I am asking you now if you can state any large contract, the first one.

A. We bought 8,500 tons of steel from La Belle Iron Company in 1912.

Q. What time in the year?

A. I think in the early spring, April or May, as near as I can recall it.

Q. Is that the first large contract or purchase you made that year?

A. Yes; I think it was the first large one we made in 1912.

Q. Whom did you negotiate that with?

A. With their sales agent at St. Louis.

Q. What is his name?

A. I cannot recall his name at this moment.

Q. What month was it in?

A. Either April or May, to the best of my recollection.

Q. Did you negotiate it in St. Louis?

A. Yes, sir.

Q. Did you go there?

A. I do not remember whether I went to St. Louis or whether the sales agent came to see us. He has been at our place a number of times. I don't remember about this particular contract. We might have negotiated it by telephone. We frequently do that.

Q. I understood you to say you negotiated it in St. Louis?

A. Through their St. Louis sales office.

Q. You did not mean to say, then, that the transaction was done in St. Louis?

A. Not necessarily; no, sir.

Q. Can you tell where it was done?

A. I cannot remember about it.

Q. Did you do it?

A. Yes, sir.

Q. And you do not know where you made it or how you did it?

A. I do not know whether I did it by correspondence, telephone, or whether the representative came out to see us or not. I could not say.

Q. That was in 1912?

A. Yes, sir.

Q. Who took it up first; you with him, or he with you?

A. I took it up with him. We were in the market for some steel. I asked him for a price.

Q. And did you give him a price on any particular tonnage?

A. You mean, did he give us a price?

Q. I mean, did you ask the price on any particular tonnage?

A. Yes; I asked for a price at one time for 3,500 tons, and again for 5,000 tons.

Q. Were they thrown together in this 8,500 tons?

A. They were purchased at different times.

Q. I asked you for one purchase; now you are talking about two purchases. I want to get the first large purchase you made in 1912.

A. I do not know whether it was 3,500 tons or the 5,000 tons lot that we purchased first; I could not tell you.

Q. How far apart were those purchases?

A. They were a few weeks apart; three or four weeks.

Q. Was the price the same?

A. No, sir; there was a difference of a dollar a ton between the two.

Q. Take the first one, then; do you know what month that was in?

A. I do not; no, sir.

Q. Do you know where that was negotiated?

A. No, sir; I could not tell you where. It was negotiated through their St. Louis office. I am under the impression that their representative came to see us at Mount Vernon.

Q. Did he come without your solicitation or upon your solicitation?

A. He came in response to our inquiry for price.

Q. Did he make you a price then?

A. He did.

Q. What price did he make you?

A. I think that was $1.35 per 100 pounds.

Q. Delivered?

A. Delivered at Mount Vernon, yes.

Q. That included their paying the freight, did it?

A. Yes, sir.

Q. When did you close that contract, with reference to his visit?

A. The same day that he was there.

Q. And he had not given you that price before that day?

A. No, sir.

Q. Now, on that particular purchase, what other bids did you take, and from whom, and when?

A. We took bids from the Illinois Steel Company, the Lackawanna Steel Company, the Portsmouth Steel Company, the United Steel Company; I think perhaps the Eastern Steel Company also at that time.

Q. You mean to say, do you, that you took bids on that particular purchase from each one of those companies?

A. Yes, sir.

Q. Did you give them the amount of tonnage?

A. Yes, sir.

Q. Well, now, when did the Illinois make their bid, and what was it?

A. I don't know.

Q. How long before the La Belle man made his proposition, how long before or after, did the Illinois Steel Company make theirs?

A. I could not tell you that.

Q. Do you know whether it was before or after?

A. No, sir; I do not.

Q. Take the Lackawanna Steel Company; do you know whether theirs was before or after?

A. No, sir; I do not.

Q. And the Portsmouth?

A. I do not.

Q. And the United?

A. I don't know about that.

Q. And the Eastern?

A. No, sir.

Q. And you do not know what they were?

A. No, sir; I don't remember.

Q. Were all their bids delivered at your place?

A. Yes, sir.

Q. And you do not know their relation to each other?

A. No, sir; I could not tell you that definitely.

Q. What was the largest contract you made in 1912?

A. I think the purchase of 5,000 tons of steel was our largest contract in 1912.

Q. When was that?

A. That was perhaps several weeks after this 3,500 ton purchase was made.

Q. Could you give the month?

A. No, sir.

Q. From whom was that purchase made?

A. From La Belle; the same people.

Q. Was that a new transaction, independent of the other transaction?

A. Yes, sir.

Q. Was the price different?

A. There was a difference of one dollar a ton in the price.

Q. Do you know where that was negotiated?

A. In my office at Mount Vernon, Illinois, I think.

Q. Who represented them?

A. I do not recall their sales agent's name; I don't remember his name.

Q. Did they come on your solicitation or of their own accord?

A. They came in answer to our inquiry for a price.

Q. And he came and gave you a price?

A. Yes, sir.

Q. And when did you close that arrangement?

A. I could not tell you what date.

Q. Do you know whether you closed it that day or not?

A. I think I closed it the day he was there.

Q. While he was there?

A. That is my recollection.

Q. On that particular purchase, Mr. Weber, state from whom you solicited bids, giving the tonnage.

A. I do not think that we asked anybody for a price on that second purchase, because the purchase of 3,500 tons was made such a short time previous, and it was very largely a question of delivery the second time.

Q. So you bought that without any competitive bids?

A. Without taking any competitive bids on that particular lot; yes, sir.

Q. What other large contract did you make in 1912?

A. I think that was all.

Q. Do you know the largest purchase you made in 1911; from whom you made it, and about the time of the year you made it?

A. No, sir; I could not tell you that.

Q. Do you know from whom you took bids and what relation they bore to each other?

A. No; we take bids from the same concerns that I have given you the names of in the previous question, because they are on our list for all of our inquiries.

Q. You say "we take bids."

A. Yes, sir.

Q. You mean that is your general custom?

A. Yes, sir.

Q. I am not asking you about your custom, but I am asking you on that particular purchase, can you state from whom you took bids?

A. What particular purchase?

Q. The largest purchase that was made in the year 1911.

A. I could not give you the specific tonnage that we bought in 1911, and I can not state or give the names of the people I took bids from——

Q. Nor their relation to each other?

A. No, sir.

Q. Nor their variation from each other, if there was any?

A. I can not give you figures; no, sir.

Q. What is your largest purchase in 1913?

A. I think our largest single purchase in 1913 was one of 10,000 tons from the Illinois Steel Company.

Q. When did you make that?

A. That was made early in the year. I do not remember what month; early in this year.

Q. With whom did you negotiate that?

A. That was negotiated with Mr. W. B. Weston.

Q. Where?

A. I think that was handled by correspondence and telephone, through his St. Louis office. I do not believe he came on at that time.

Q. You had no personal interview with him?

A. I do not think we did on that particular lot; that is my recollection.

Q. Did you handle that transaction yourself?

A. Yes, sir.

Q. You say you do not know the month?

A. Not definitely; it was early in the year, though.

Q. Early in the year?

A. Yes.

Q. Was that price on delivery at your place?

A. Yes, sir.

Q. The seller to pay the——

A. (Interposing) The freight.

Q. The freight?

A. Yes, sir.

Q. On that particular purchase, can you say now who made bids; what the bids were, or what their relation was to each other, or their variations, if any?

A. Yes, sir. We took bids on that particular purchase from the Inland Steel Company, the Lackawanna Steel Company, the Jones & Laughlin Steel Company, the Portsmouth Steel Company, United Steel Company, the Eastern Steel Company. Those are the principal ones that I recall.

Q. Did you solicit them, or did they solicit you?

A. We sent an inquiry out for prices on this tonnage.

Q. Did you name the tonnage?

A. I think we did, yes, sir.

Q. Do you know whether you did or did not?

A. I am not sure just how our letter was worded. We usually word those giving a maximum and minimum tonnage that we want to buy, and then we decide, when the time comes how much we will buy. My letter probably would have read from five to ten thousand tons.

Q. Can you say now, as a matter of memory, that you did not give any maximum or minimum when you solicited those bids?

A. I cannot give you that particular form of letter, no, sir.

Q. How long did your negotiations continue with the Illinois Steel Company, from the inception thereof until the deal was finally made?

A. I do not know.

Q. Was it a week or two weeks or a month?

A. Probably a week or ten days. It usually takes that time to get our prices in and to know what we want to do.

Q. I do not know whether I asked you the price you paid on that.

A. No.

Q. What was it?

A. $1.54 per hundred pounds, delivered at Mt. Vernon.

Q. What price did the Inland make you?

A. Their price was $1 a ton higher, as I recall it.

Q. Do you recall that it was a dollar a ton higher?

A. Yes, sir; I am quite sure it was a dollar a ton higher.

Q. What was the Lackawanna?

A. Their price was $1.67½ delivered at Mt. Vernon.

Q. That was by correspondence, you say?

A. Yes, sir; by correspondence.

Q. And you have got those letters?

A. I think they are in our files.

Q. Jones & Laughlin; what was their price?

A. I do not remember. I think their price was the same as the Lackawanna price.

Q. Well, the Portsmouth?

A. I do not remember about Portsmouth.

Q. United Steel?

A. I do not remember about that, either.

Q. The Eastern?

A. I am not sure, but I think Eastern's price was about $1.75. They have a higher freight rate than Pittsburgh, which makes their price somewhat higher.

Q. And all these were based upon their paying the freight rates?

A. Paying the freight, yes, sir.

Q. Do you know what the quoted market price was at that time?

A. It was about $1.45, Pittsburgh base.

Q. What was the regular freight from Pittsburgh to your place?

A. 22½ cents per hundred pounds.

Q. 22½ cents per hundred pounds?

A. Yes, sir.

Q. The Lackawanna and Jones & Laughlin then quoted you the then quoted market price?

A. Yes, sir; as I recollect it, the market price.

Q. On the Pittsburgh base?

A. Yes.

Q. But you do not know how many of these others quoted that, do you?

A. I cannot remember, no, sir.

Q. Was the price at which you traded with the Illinois Company the first quotation they made you or did you negotiate with them and finally reach that price?

A. I think that particular tonnage was the first price they made.

Q. The first price they made?

A. Yes.

Q. Do you know whether it was or not?

A. I could not state positively; I am under the impression that it was.

Q. Take car axles; what tonnage in car axles did you buy for the year 1913?

A. To the best of my recollection, approximately 8,000 tons.

Q. From whom did you buy it? Name the companies and the amounts, as near as you can give them.

A. We bought most of those axles—that is, more than 50 per cent. of the tonnage—possibly 75 per cent.—from the Standard Forgings Company, of Chicago. We bought some from the Pollak Steel Company, of Cincinnati.

Q. Pollak?

A. Pollak, yes, sir.

We bought some from the Illinois Steel Company in that year.

Q. That is this year, you mean?

A. This year, yes, sir. I do not remember how many tons; probably a thousand or fifteen hundred tons from them.

Q. Did you buy any from Carnegie?

A. No, sir; we did not.

Q. Have you now given all that you can remember?

A. Yes; all that I can remember.

Q. You said 50 to 75 per cent. from Pollak?

A. The Pollak Steel Company, yes, sir, of Cincinnati.

Q. Was this contract with Pollak——

MR. SEVERANCE: No, Judge; he said about 75 per cent.

from the Standard Forgings Company, and that he bought some from Pollak and some from Illinois.

By Mr. Dickinson:

Q. This purchase of 50 to 75 per cent. from the Standard Forgings Company; was that one or more purchases?

A. That was several purchases.

Q. Now, when did you make the first purchase?

A. I don't remember.

Q. Nor the second?

A. I don't remember.

Q. Nor the third?

A. I don't remember.

Q. Do you know the relative tonnages you got in those several purchases?

A. We buy axles, not by tonnage, but so many axles to cover our requirements, or ahead of our requirements.

Q. Leaving out the question of tonnage, what proportion of those did you buy under the first contract, if you know?

A. I could not say.

Q. Or the second?

A. No.

Q. Or the third?

A. No.

Q. Can you approximate it?

A. No, I would not undertake to.

Q. And you can not give the month when you made the first purchase?

A. No, sir.

Q. On any of the first?

A. No: those are distributed over several months; and there are frequent orders that come in to cover our requirements. Many times they are not on direct contract, but sometimes we contract. We made one contract in 1913 for a stipulated number of axles.

Q. You did make one?

A. Yes.

Q. When was that made?

A. I don't know.

Q. What number did it stipulate?

A. I think 8,000 axles.

Q. You had one contract for 8,000 axles?

A. 8,000 axles, yes.

Q. How many thousand have you bought in 1913, up to the present time?

A. I can not remember that; I do not know. I do not care to even approximate it; I don't remember, for the reason that I do not remember how many cars we built, exactly, this year. Some of those axles we are using now; they are not all applied yet to the cars, and we have quite a number of them in stock, and I do not know how many axles we had shipped in.

Q. Farther back you used the figures 8,000, and I understood you to speak of tons?

A. Yes; but these 8,000 axles are only part of what we purchased in 1913. As near as I can say, we would use around 8,000 tons during the year.

Q. You say you would use 8,000 tons?

A. Yes, sir; that is the idea; approximately.

MR. SEVERANCE: As I understood him, the 8,000 tons is his annual necessity.

MR. DICKINSON: Yes, for 1913.

MR. SEVERANCE: What he will use during the year, not what has been purchased during the year? I do not know which he means.

By MR. DICKINSON:

Q. I will ask you, do you mean that you have purchased in 1913 8,000 axles, or that 8,000 would be about what you would use?

A. We have purchased the 8,000 axles, but have not taken all of those axles under our contract; they have not been shipped.

Q. But you have contracted for them this year?

A. Yes.

Q. And 8,000 axles you bought in one contract from the Standard?

A. Yes.

Q. Was it a written contract?

A. It was a written contract.

Q. With whom did you negotiate that?

A. That was negotiated with Mr. George E. Van Hagen, vice-president of the Standard Forgings Company.

Q. Where was it negotiated?

A. It was negotiated by correspondence and telephone through their Chicago office and our office.

Q. You did not meet him personally?

A. Not in this particular contract, no, sir.

Q. How long from the time that was first taken up was it before you closed it? I do not mean signed the paper, but before you reached an understanding that it was an agreement?

A. I suppose our negotiations extended over a period of two or three weeks on that lot.

MR. SEVERANCE: You spoke of 8,000 axles just now?

THE WITNESS: Yes; 8,000 axles.

By MR. DICKINSON:

Q. But you can not state in what month that began?

A. No; I do not remember what month it was.

Q. Now, on that particular number of axles did you take bids, and if so, from whom?

A. We took bids from the Pollak Steel Company of Cincinnati, and the Illinois Steel Company; their St. Louis office; and J. R. Johnson & Company of Richmond; the Cleveland City Forge & Iron Company of Cleveland, Ohio.

Q. And were those bids based on delivery to you, the seller paying the freight?

A. Yes.

Q. What did you pay for those axles to Pollak?

A. $1.79 delivered at Mount Vernon, per 100 pounds.

Q. Are there market quotations on axles?

A. Yes; the trade journals give a line on axles, along with other material, from week to week.

Q. What was the price at that time; do you know?

A. I don't know.

Q. Can you tell, then, what relation those prices bore to the price in the trade journals?

A. I can not with positiveness: no, sir.

Q. Now, give the bids that the Illinois made.

A. The Illinois price was $1.84; that is a dollar a ton higher than the other.

Q. What was Johnson's?

A. Johnson was higher than that; I do not remember. They have a higher freight rate than the other people.

Q. And the Cleveland City Company?

A. The Cleveland City, their price was still higher than $1.84, but how much higher I do not remember.

Q. And you do not know what their various freight rates were?

A. No; I do not know the rate from Richmond. I do not recall at this moment. They quoted us a delivered price.

Q. So that stripped of freight rates do you know what relation those bids bore to each other?

A. Stripped of the freight rates?

Q. Yes.

A. No, sir; I do not.

Q. You were asked about the prices that were quoted to you by people endeavoring to sell you, and the relation of those to the trade paper prices, and the question was asked: "They are identical?" and you answered: "They are not; no, sir; not identical." What did you mean by "identical" in the sense in which you answered that?

A. I mean that in most instances we are able to buy material for less than the trade journals quoted. Their prices are only approximate, as attempting to give the general market conditions.

Q. You say you are able to buy. You negotiate, do you not, after receiving prices, generally?

A. I do not know just what you mean by the word "negotiate."

Q. To get a better price, if you can.

A. We do.

Q. And you do that?

A. Yes.

Q. Does not the size of your order affect that?

A. Yes, it does.

Q. In speaking of identical prices, were you referring to the prices at which you purchased, in reference to the trade papers, or prices that were quoted to you?

A. Both.

Q. Both?

A. Both quotations and the prices we purchased at.

Q. Do you carry in your mind for any particular time or period the relations of the bids that you got to the trade quotations at that time?

A. No, sir. All that I can say is that my experience as a buyer has shown me that the trade journals are not always absolutely reliable on prices. There is a variation, when you actually get ready to place your tonnage, naturally.

Q. Don't it frequently happen that a number of the bidders are the same?

A. Yes; that happens sometimes.

Q. And you can not state how often that happened in your business?

A. No, sir.

Q. You do not carry those things in your mind?

A. I presume I might make an explanatory remark?

Q. No; answer the question.

A. No, sir; I can not carry those things definitely in my mind. I was going to say that when times are brisk and everybody has business to place, and the mills have all the business they want, prices are apt to run uniform. One mill would know what another mill is charging, and they are apt to charge about the same. But when business falls off or the tonnage falls off, you get a wider variation.

Q. But they frequently quote the same price at periods of time?

A. During the periods of boom times, when business is brisk, yes; when business is not so brisk and they are hunting for orders a little stronger, they are not the same; there is a wider variation.

Q. Those prices always bear a pretty close relation, do they not, to the quoted trade prices?

A. I do not know what you mean by "close relation." There would be a variation of anywhere from one dollar to two dollars a ton.

Q. That, however, is the general standard you look to for information, and you consider your prices in reference to them, do you not?

A. We read the trade journals and post ourselves as to market conditions, and approximately the prices that are going, and we use that as a basis for our negotiations; we start with that.

Q. And you accept that as approximate information?

A. Some of the trade journals are very close to that, yes.

Q. I notice that the record yesterday evening closed with this question, not answered; when we closed yesterday the question was asked:

"Q. Take 1910; from whom did you buy any of the steel commodities about which you have been talking?"

And you do not seem to have answered that question. Can you answer that now?

A. I can not give you the names of the people that we purchased from in 1910, only in a general way. I can recall a few concerns that we did business with during that year. I cannot give you the tonnage we bought, nor the prices we paid for it.

Q. Nor the bids?

A. Nor the bids.

Q. Nor the relations of the bids?

A. No, I could not do that from memory.

REDIRECT EXAMINATION

By Mr. Severance:

Q. In times of great activity is it necessary to pay advanced prices, what are generally termed premiums, at times?

A. Very often; we have done so.

Mr. Severance: That is all.

THEODORE NEUHAUS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Where is your home?

A. Davenport, Iowa.

Q. What is your business?

A. Jobber in hardware.

Q. What is the name of your company?

A. Sickles and Preston Company.

Q. What is your official position in that company?

A. Vice president and general manager.

Q. How long have you been in that business?

A. Personally?

Q. Yes.

A. Since 1882.

Q. How old is your house?

A. Established, I think, in 1853.

Q. What does your company handle: what does it deal in?

A. Shelf hardware and like commodities.

Q. Do you deal in sheets and wire goods?

A. Yes, sir.

Q. How is that?

A. Sheets, nails, barbed wide, fence wire.

Q. Who has charge of the buying?

A. I have.

Q. Have you had charge of the buying for the last twelve years?

A. I have had a portion of the buying since 1890, and have been doing practically all of the buying since——

Q. I am asking you whether you go back as far as 1901. I am not interested prior to that, for twelve years.

A. Twelve years ago I assisted Mr. Nutting in doing all the buying. In fact I had all the contracts.

Q. So that during the last twelve years you have been doing that?

A. Yes.

Q. From what subsidiaries of the United States Steel Corporation have you bought any of your requirements?

A. From the American Steel & Wire Company, we bought our entire supply of nails, barbed wire and fencing, and from the American Tin Plate Company we usually buy a few cars of black sheets every year.

Q. You say you have been making your purchases from the American Steel & Wire Company?

A. Yes.

Q. Have you before making those purchases from time to time received quotations from other manufacturers?

A. Yes, sir.

Q. You make a practice of doing that?

A. Well, we have not for the last few years, because we have the utmost confidence in the American Steel & Wire Company.

Q. Do you get them?

A. Yes, we do get them.

Q. I am not asking whether you ask for them, but do you get them?

A. Yes.

Q. They do make quotations?

A. Yes, sir.

Q. Do traveling men call on you?

A. Frequently; in fact traveling men for every manufacturer.

Q. What has been your experience as to the prices offered to you? I understand that they have been voluntarily offered you; you have not asked for them, but the prices offered you by the other wire manufacturers, have they been uniform with the prices quoted you by the American Steel & Wire Company, or have they varied?

A. They vary at times.

Q. Have there been any times when, on account of others quoting you a lower price the American Steel & Wire Company has changed its quotation to you?

A. That has happened, yes, sir.

Q. How do you treat that matter when such a thing as that comes up?

A. I usually sit down and write the American Steel & Wire Company and tell them what I have been quoted, and as a rule they meet the price.

Q. What has been your particular reason for purchasing continuously from the American Steel & Wire Company?

A. Well, I have the utmost confidence in them and they have always treated me right and given me service; service and prompt shipments.

Q. From what mills do they ordinarily ship you?

A. They make our shipments from the DeKalb and Joliet principally; at times from Cleveland, but not very often.

Q. How far is it to Davenport from Elgin or Joliet?

A. About 160 miles.

Q. How long does it take to get freight from one of those places over to Davenport under normal conditions?

A. Two days.

Q. About what is your annual tonnage of these wire products that you buy from the American Steel & Wire Company?

A. That will vary; it will run from 1,000 to 1,500 tons.

Q. Do you handle any field fence?

A. We are now; yes. Only the last few years.

Q. And what field fence do you handle; American Steel & Wire Company's fence?

A. Yes, known as National.

Q. What about your requirements of galvanized sheets; where do you buy them?

A. We buy them entirely from the Wheeling Corrugating Company of Wheeling, West Virginia.

Q. How long have you been buying from the Wheeling Corrugating Company?

A. Since 1888 or 1889.

Q. Do other manufacturers quote you on sheets?

A. They do.

MR. COLTON: What kind of sheets are you speaking of?

MR. SEVERANCE: Galvanized sheets.

By MR. SEVERANCE:

Q. Do the American Sheet & Tin Plate Company, among others, quote you on sheets?

A. Yes, sir.

Q. What has been your experience as to whether the prices quoted you by the various sheet mills have been uniform or varying?

A. They vary at times.

Q. Have there been any times when the quotations made by outside mills were lower than the quotations made by the Wheeling Corrugating Company?

A. Oh, yes.

Q. What action do you take under those circumstances?

A. I write the Wheeling Corrugating Company and tell them what I have been quoted.

Q. What action does the Wheeling Corrugating Company take in response to that information?

A. Invariably meets the price.

Q. What is your annual tonnage in sheets?

MR. COLTON: Is that only galvanized sheets?

THE WITNESS: Galvanized sheets.

By MR. SEVERANCE:

Q. What is your annual tonnage in sheets?

A. Probably 500 to 800 tons.

Q. Do you buy tin plate?

A. We do.

Q. Where do you buy your tin plate?

A. We buy some from the Wheeling Corrugating Company, of Wheeling, and Follansbee Brothers of Pittsburgh, and we buy some from the N. & G. Taylor Company of Philadelphia.

Q. Is your business on tin plate solicited by various manufacturers?

A. Yes, sir.

Q. Do they quote you prices?

A. Yes, sir.

Q. Do those prices vary or are they uniform?

A. The tin plate we buy is standard brands that are specified for by architects.

Q. You buy whatever the architects specify?

A. Yes, sir.

Q. Have you bought any of your supply of tin plate from the American Sheet & Tin Plate Company?

A. Never.

Q. Mr. Neuhaus, have other manufacturers of fence solicited your business, steel fence?

A. Oh, yes.

Q. Do you remember what ones?

A. Well, the Keystone Fence Company, a concern in Peoria, and the Pittsburgh Steel would sell us, I presume.

Q. How long have you handled field fence?

A. About three years.

Q. Where do you wholesale? In what territory?

A. We cover Iowa, except the extreme north portion, and western Illinois.

CROSS EXAMINATION

By Mr. Colton:

Q. I understood you to say, in respect of wire prices, that you got quotations from time to time from outside mills, and that at times they varied from the price given you by the American Steel & Wire Company, and at times they were the same?

Mr. Severance: He did not so state; I am sure you did not understand him to state they were the same.

Mr. Colton: I was going to add: Are they at times the same?

The Witness: Oh, yes.

By Mr. Colton:

Q. You do not know what percentage of the time they are the same, and what percentage of the time they are different, do you? They are frequently different and frequently the same?

A. They may stand at the same price for a long while, and somebody might come along and quote me a dollar a ton less.

Q. That is, these quotations given to you by manufacturers may stand at a normal price for a long time, and then

somebody will come along and give you a different price from that at which it had stood for a long time, and then you would take that price up with the American Steel & Wire Company; is that correct?

A. Correct.

Q. And then the American Steel & Wire Company sometimes would meet that price, and sometimes it would not meet that price; is that correct?

A. They would not meet it immediately, but they probably would after a long time had elapsed.

Q. Do you know whether they simply gave you a lower price, or whether they lowered their price as a whole?

A. I do not know.

Q. You know you got a lower price sometimes as a result of that, as you say, after some time had elapsed?

A. Yes.

Q. Did they require you to make any proof with reference to the offer that had been made to you?

A. No, never.

Q. You simply wrote them the offer and gave them the name of the firm that made the offer, I suppose?

A. Sometimes.

Q. Did you state on what tonnage the offer was made?

A. Never.

Q. And what you said in regard to prices, and the uniformity, in so far as there was uniformity of prices, and the variations of prices, applied to wire nails, barbed wire, and what other wire products?

A. Barbed wire, smooth wire and nails; that covers the line pretty thoroughly, I should think.

Q. And you got quotations from the different manufacturers pretty generally, did you?

A. Yes.

Q. You endeavored to secure competition in your wire purchases, did you not?

A. Always.

Q. I believe you stated that you have given your entire trade to the American Steel & Wire Company?

A. Yes.

Q. And for how long has that been the case?

A. Well, ever since they have been in business.

Q. Ever since the American Steel & Wire Company was formed?

A. Yes. I will correct that. We bought at one time 1,000 kegs of nails outside.

Q. At what time was that?

A. Oh, it was about 1906 or 1907.

Q. Do you recall from whom you purchased that?

A. The Pittsburgh Steel Company.

Q. In 1906 and 1907?

A. Yes.

Q. I suppose you got that at a lower price, did you not?

A. Yes.

Q. Now, your sheet steel: you spoke of galvanized sheet and where you purchased that from. What other kinds of sheets do you purchase?

A. Black sheets.

Q. Where do you purchase your black sheets?

A. The American Sheet & Tin Plate Company.

Q. Entirely?

A. On what they call the "Wood's refined smooth iron."

Q. That is a special brand, is it?

A. A special brand.

Q. Is that really iron?

A. I never analyzed it.

Q. You do not know whether it is iron or steel?

A. No.

Q. Because of its being a special brand, it commands a special price, those standard brands?

A. It does.

Q. Do you buy any other sheets from the American Sheet & Tin Plate Company?

A. Planished iron.

Q. What tonnage of planished iron do you buy from the American Sheet & Tin Plate Company?

A. Probably three tons a year.

Q. What would your total tonnage from the American Sheet & Tin Plate Company be?

A. On an average, about 30 tons.

Q. Do you now recall the price you were paying for nails before the formation of the American Steel & Wire Company?

MR. SEVERANCE: Objected to as not cross examination. I confined my questions to 1901 and subsequent years.

THE WITNESS: Prior to 1901?

By MR. COLTON:

Q. Prior to the formation of the American Steel & Wire Company, if you remember when that was formed.

A. No, I could not answer that question.

Q. Do you recall what price you were paying for wire products during 1900?

A. No, I do not.

Q. Do you recall a cut made by Gates in 1900 or thereabouts in the price of wire products, amounting to something like $20 a ton?

A. Yes.

Q. To what different wire products did that cut extend?

A. Nails, barbed wire, smooth wire.

Q. Do you recall approximately how low the price went in those different products?

MR. SEVERANCE: The same objection, as not proper cross examination.

THE WITNESS: No, I do not.

By MR. COLTON:

Q. Do you recall how long the price stayed down on those products after Gates had cut it $20 a ton?

A. It declined right along and kept declining and got down to a normal basis.

Q. You mean that during the cut it kept going down until it went down $20 a ton?

A. No, it dropped $20 a ton at one time.

MR. SEVERANCE: All this is subject to my objection as not proper cross examination.

MR. COLTON: Yes.

By Mr. Colton:

Q. After he cut it $20 a ton how long before it began to rise again?

A. I don't recall.

Q. It did begin to rise again, did it not?

A. I rather think it did.

Q. You do not recall how much nails were per hundred pounds—if that is the way you had them quoted to you in 1900?

Mr. Severance: Haven't you got evidence enough on that?

Mr. Colton: I have a right to test his memory on this subject.

Mr. Severance: If you want to use up the time on this all right; I am utterly helpless to stop it, but you know it is not proper cross examination.

The Witness: No, I do not.

By Mr. Colton:

Q. Now, these galvanized sheets, you spoke of the fact that prices at times that were quoted to you on those varied?

A. Yes.

Q. I do not mean to say that you spoke of this, but is it a fact that at times the prices quoted you on galvanized sheets were the same as those you were paying?

A. Yes.

Q. And the generally quoted prices on galvanized sheets at times would be the same for a considerable period of time?

A. For a period, yes.

Q. And the price that you would get from the different manufacturers for a period would be the same price that you were paying, at times?

A. Yes.

Q. And then, when the price was different, when the other manufacturers quoted you a different price, you called that to the attention of the company you were dealing with?

A. Yes, sir.

Q. And that particular company invariably met the price?

A. Met the price.

Q. Was that a part of the understanding with you, that they would meet the price?

A. Well, no, I don't think so.

Q. How did you happen to first call their attention to that?

A. From our long business with them.

Q. I mean, how did you happen to call their attention in the first instance?

A. Oh, it is only natural to look for a lower price. If I can get a better price I want it.

Q. And you gave them an opportunity to do your business before you took advantage of the better offer you had received?

A. Yes.

Q. There have been such periods during the last twelve years, during which the prices were the same, and periods in which you could get a variation in price; is that correct?

A. Yes.

Q. And you cannot now state the relative length of time during which you had the same general price from the same manufacturers?

A. I cannot.

REDIRECT EXAMINATION.

By Mr. Severance:

Q. You have stated that at times the American Steel & Wire Company would meet lower quotations and at times they would not; that is true, is it?

A. Yes.

Q. As a rule have not the quotations made to you by outside people been lower than the quotations made to you in the first instance by the American Steel & Wire Company, in the last twelve years?

Mr. Colton: Just a moment, before he answers that. I object on the ground that the question is leading. The witness has already testified on this subject both on direct and on cross examination.

The Witness: Yes.

By Mr. Severance:

Q. That has been the general rule, has it not?

A. Yes.

Q. What has been the ordinary spread of the American Steel & Wire Company's prices and outsiders' prices, other mill prices?

A. About a dollar a ton.

Q. Has that been the usual condition during the last ten or twelve years?

A. It has.

Q. How many different people are after that business? Perhaps you cannot give the exact number, but approximately.

A. I should say ten or twelve, probably.

Q. Now, has that situation existed during that period as to barbed wire and plain wire, the same as nails?

A. Yes.

Q. Now, take the matter of sheets; has there been a good deal or a small amount of competition in sheets?

A. There always has been competition.

Q. And what has been the ordinary variation in quotations? Would the limit be the same?

Mr. Colton: I object to that also.

The Witness: About a dollar a ton.

Q. What kind of times are they when you get uniform quotations, good times or bad times?

A. Good times.

Q. Are they good times when mills are asking for premiums for prompt delivery and shipment?

Mr. Colton: Objected to as leading.

The Witness: We have never had any experience of that character.

By Mr. Severance:

Q. Because you had good deliveries from both companies you have dealt with, the American Steel & Wire Company and the Wheeling Corrugating Company?

MR. COLTON: Objected to as leading and argumentative.

THE WITNESS: Yes.

MR. SEVERANCE: That is all.

RECROSS EXAMINATION

By MR. COLTON:

Q. You have stated, as I understood you, that during normal times, frequently for long periods of time, you would get the same quotations from other manufacturers that you got from the American Steel & Wire Company; is that correct?

A. Yes, sir.

Q. And that you could not say as to the extent of the time that you got the same quotations from the other manufacturers, as compared with the extent of times that you got different quotations?

A. No.

Q. You mean that you can not state?

A. The difference in time between what?

Q. The difference in the extent of time in which you got the same quotation from the different manufacturers?

A. I do not get just what you mean; I don't understand just what you are driving at.

Q. You do not understand the last question?

A. No.

Q. Do you mean that you cannot state the extent of the times that you got the same quotations from other manufacturers as compared with the extent of the time that you got different quotations from other manufacturers; is that what you mean?

A. I could not state how long a time might exist between the time I got the price from the American Steel & Wire Company and the price of another concern making a price. It might be two weeks and it might be three months.

Q. And you could not state as to the relative periods during which you were getting the same quotations from other manufacturers, which you would not call to the attention of

the American Steel & Wire Company, as compared with the time that you got different quotations?

A. I could not; no, sir.

By Mr. Severance:

Q. You say, as I understand you, in answer to counsel just now, that you can not say whether two weeks or three months might elapse between the time that the American Steel & Wire Company would quote you one price, and other manufacturers would quote you a different price, and that is all you meant by that answer?

A. Yes, sir.

Q. That is all you meant by——

Mr. Colton: I object to this——

The Witness: That is all I mean.

Mr. Colton: I object to this form of argument with the witness.

The Witness: That is all I meant, just exactly.

By Mr. Severance:

Q. By any answer that you have made to Mr. Colton's questions, do you mean to change your testimony given in answer to my questions, that ordinarily you received lower quotations, averaging about a dollar a ton, from outsiders, than you got from the American Steel & Wire Company?

Mr. Colton: I object to this method of taking the witness up, leading your own witness, and taking up all my different questions, which the witness can not have in his mind, and that the proper thing to do, if you have any doubt about whether he understood any of my questions, would be to call his attention to my questions, and ask him what he understood them to mean, and take them up in that way, and that this is an improper way to deal with your own witness.

Mr. Severance: Will you read my last question?

(The question was read by the stenographer as follows:)

"Q. By any answer that you have made to Mr. Colton's questions, do you mean to change your testimony given in answer to my questions, that ordinarily you received lower

quotations, averaging about a dollar a ton, from outsiders, than you got from the American Steel & Wire Company?"

THE WITNESS: Yes, sir.

By MR. SEVERANCE:

Q. You do mean to change your testimony?

A. Yes, sir; I mean to change my testimony. That is the way I thought the question was put to me.

Q. Tell us what you do mean.

A. I mean this, that the American Steel & Wire Company might make me a price today of $1.60. Tomorrow a dealer would come around and offer me $1.55. Now, I may have contracted for those nails four months ago at $1.60. There is four months intervening to the prior time.

Q. Then, may I ask whether you intended to testify that over long periods of time the American Steel & Wire Company and the outsiders would come along from day to day or time to time and quote the same price?

A. The same price for a period of time, for long periods; maybe four months, maybe six months.

Q. I do not understand that.

MR. COLTON: Mr. Severance, I don't think you ought to argue with your witness in that way.

THE WITNESS: I am willing to answer the question in this way: The American Steel & Wire Company's price today is $1.60, and they have been forced to reduce their price to $1.55.

By MR. SEVERANCE:

Q. Forced how?

A. By outside competition.

Q. Go ahead.

A. I contracted with the American Steel & Wire Company a few months ago, or such a matter, at $1.60. They are billing my nails to me at $1.55.

Q. Apparently your answers are somewhat inconsistent with each other, and I am trying to find out just what you meant.

A. That is what I meant, exactly.

Q. Has that been an unusual thing, for them to reduce their prices in that way?

A. No.

Q. For the reason you have stated?

A. For the reason I have stated.

Q. Is there any further explanation you want to make of these various answers?

A. No, sir.

By Mr. Colton:

Q. I wish to call your attention to the following question put to you by Mr. Severance on redirect examination and your answer thereto, which I will ask the stenographer to read.

(The stenographer then read the question and answer referred to as follows:)

"Q. Then may I ask whether you intended to testify that over long periods of time the American Steel & Wire Company and the outsiders would come along from day to day or time to time and quote the same price?

"A. The same price for a period of time, for long periods, maybe four months, maybe six months."

By Mr. Colton:

Q. You intended to so testify, didn't you, Mr. Neuhaus?

A. It is true that they would have the same price for a period of time, the American Steel & Wire Company and outsiders.

Q. And as you say, for long periods of time?

A. Sometimes it might run on two or three or four months.

Q. Now, you say on certain occasions, I do not want to misquote you, perhaps you said frequently, that the American Steel & Wire Company had been compelled to cut its price as a result of a change in quotations by outsiders; is that correct?

A. Yes, sir.

Q. Beginning with 1901, I would like you to give all the different changes so far as you can remember, made by the American Steel & Wire Company as a result of that.

A. I cannot do that without the records.

Q. You could not give either the cuts made or the intervals between the cuts?

A. No, sir.

Q. Have you continued at the same price with the American Steel & Wire Company for as much as six months at a time?

MR. SEVERANCE: Do you mean by that has he made a contract covering that period?

MR. COLTON: I mean has he continued to pay that price for as much as six months at a time?

MR. SEVERANCE: He may have under contracts.

MR. COLTON: Yes, I understand.

THE WITNESS: I contracted last year for 1,200 tons, and I took it out in about six months.

By MR. COLTON:

Q. Did you pay the contract price?

A. Oh, I paid the contract price.

Q. For the entire period?

A. Yes, sir.

Q. Then there was no reduction brought about in the price during the existence of that contract?

A. No.

Q. You do not know when your preceding contract with the American Steel & Wire Company began?

A. No, I cannot answer that question.

Q. Do you know whether there was any reduction brought about during the existence of the preceding contract?

A. I could not answer that.

Q. Is it not a fact that when you made contracts in this way that you continued to pay the contract price for several months at a time?

A. Oh, yes.

Q. Could you give me any idea how many times you succeeded in getting them to reduce the contract price during the last twelve years?

A. No.

Q. Could you give me any idea how often you succeeded

in getting them to reduce the contract price during the year 1913?

A. That is this year?

Q. Yes.

A. Just once.

Q. And in 1912 could you give me any idea how many times you succeeded in getting them to reduce the price?

A. I did not ask them.

Q. Did not ask them to at all?

A. No.

Q. And in 1911 could you tell me anything about how many times?

A. No.

Q. Do you recall that you did ask them at all in 1911?

A. I don't know.

Q. Or 1910?

A. I don't know. You are going back too far for me now.

Q. You only recollect that in a general way you have asked them to change the contract price and they have done it?

A. Yes, sir.

Q. But as to how often you have done it you cannot state?

A. No, sir.

Q. And you cannot state whether that occurred on an average of once a year or an average of twice a year?

A. No; I cannot tell that without the record.

By Mr. Severance:

Q. 1912 was a year of very great activity and an advancing market, was it not?

A. An advancing market, yes.

Q. Were the prices quoted by outsiders to you during the existence of that contract, while it was being fulfilled, higher or lower than the price that the contract provided for?

A. Higher.

Q. You had no occasion to ask to have a reduction?

A. No, sir.

Q. The contract was filled at the contract price?

A. It was.

By Mr. Colton:

Q. You do not mean to say that during the year 1912 all of your prices quoted to you were higher than your contract price?

A. On nails and wire?

Q. Yes.

A. Yes, during 1912 there were advances.

Q. Do you mean that every quotation you received during 1912 was higher than the American Steel & Wire Company's price? Not higher than the price; I mean higher than the contract price. Of course their price might have been different at that time.

A. I think after February, 1912, the market was advancing.

Q. The entire market advanced in February?

A. Yes.

Q. And that continued to be the case for how long during 1912?

A. It went on until October, I think, somewhere in there.

Q. After October you do not now recall whether some of the prices quoted to you from October on were the same as the American Steel & Wire Company's price?

A. No, sir; I did not pay any attention. I had a big stock, sufficient to run me through, so that I did not pay much attention to what they were doing.

Q. You did not pay much attention to quotations in 1912, because you had plenty of stock?

A. Yes; I had plenty of stock.

Q. And you would not pay much attention to a price that was the same as your price in 1912, where you had that big stock on hand, and you could not take advantage of it?

A. Oh, yes, I did, because I was taking advantage of the market myself.

Q. If it was the same as the American Steel & Wire Company?

A. The same as the American Steel & Wire Company; I could not get a profit, so that I had to keep track of that.

Q. As I understand you, from October on you do not recall whether some other prices were the same as those given to

you by the American Steel & Wire Company or not, during 1912? From October, 1912, up to the close of the year you do not recall.

MR. SEVERANCE: He did not say anything on the subject.

THE WITNESS: I cannot answer that; I do not know about it.

JOHN T. GARRETT

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you live?

A. St. Louis.

Q. What is your business?

A. I am president of the Missouri Bridge & Iron Company.

Q. What is the business of that corporation?

A. Manufacturing bridges and other engineering structures.

Q. About what is your output in tons?

A. About 6,000 tons a year.

Q. What kind of bridges do you build?

A. Highway and railroad and municipal bridges, for cities, and street railway bridges.

Q. How long have you been in business there?

A. Since 1902.

Q. During what portion of that time have you built railway bridges?

A. Well, the last couple of years, I guess.

Q. What railroads have you built bridges for?

A. I have built bridges for the Missouri Pacific, the Vandalia Lines, the Cotton Belt, the International & Great Northern and the Texas Pacific.

Q. Have you built any for the Burlington?

A. Yes, the Burlington.

Q. That is the C. B. & Q.?

A. The Burlington System; I do not know whether it is all the C. B. & Q. or not.

Q. It is generally known as the C. B. & Q.?

A. Yes, sir.

Q. And where have you built buildings?

A. In Missouri, Illinois, Oklahoma, Oregon, and I believe we have built some in Kansas.

Q. What kind of buildings do you build?

A. Well, what are generally known as mill buildings, factory buildings.

Q. What kind of steel material do you purchase and use in your business?

A. What are usually called structurals, consisting of plates, channels, I-beams, Ts and Zs, and bars.

Q. Upon what basis do you make your purchases, competitive or otherwise?

A. Competitive.

Q. Is it your custom to receive quotations on your supplies before placing your orders, or not?

A. Yes.

Q. Can you tell me which ones of the subsidiaries of the United States Steel Corporation you have made purchases from during the time you have been in business?

A. Well, the Carnegie Steel Company, the Illinois Steel Company and the American Bridge Company; that is all I can recall now.

Q. Have you purchased a large or small percentage of your articles from those companies?

A. Well, a small percentage I would say.

Q. From what other companies have you purchased certain of your supplies?

A. The Cambria, Jones & Laughlin, the Eastern Steel, the Inland Steel, La Belle Iron Works, Portsmouth Steel, Allegheny Steel Company, Cleveland Steel Company and the Milwaukee Steel Company.

Q. Is that the Milwaukee Steel Company or the Wisconsin?

A. The Wisconsin, at Chicago.

Q. Have you bought anything from Lukens?

A. Yes; the Lukens Steel Company; that is all I recall just now.

Q. Are there any other concerns that have solicited your business that you have not bought from, that you recall?

A. Yes; I would say the Carbon Steel Company. We never bought anything from them; the United Steel Company and the Phoenix Steel Company, the Pennsylvania Steel Company, and I believe the Otis Steel Company solicited our business, but I will not be sure about that. That is about all I can recall.

Q. In receiving bids and placing your requirements what has been your experience as to whether the bids that you received were uniform or variant?

A. Well, they have not been uniform?

Q. How much of a spread do you ever recall between the high and the low, and how low do the spreads get?

A. Well, unless it was for special short time delivery the spread was usually from $1 to $2 a ton. It is usually about $1 a ton. If they offer a special delivery sometimes the spread is more, the deliveries being more of a consideration than the price.

Q. How big a spread have you ever observed under those conditions?

A. Oh, I have paid as much as $5 a ton to a mill for getting material at the time I wanted it; that is, in quicker time than I could get it elsewhere.

Q. That is in times of great activity in the business?

A. Times of great activity in the business.

Q. By the way, how does your business compare in size with what it was ten years ago?

A. Well, we are using about six times as much as we did ten years ago; we started out very small.

Q. Is your business taken on a competitive basis or otherwise?

A. Competitive always.

Q. Always competitive?

A. Yes.

Q. Who are your competitors? Can you name some of them?

A. Well, the American Bridge Company, the Canton Bridge Company, the Chicago Bridge & Iron Company, the Clinton Bridge Company, of Clinton, Iowa; the Vincennes Bridge Company, the Decatur Bridge Company of Decatur, Indiana, the Illinois Steel Bridge Company, of Jacksonville, the Memphis Bridge Company, of Memphis, Tennessee, and the Indiana Bridge Company of Muncie.

Q. Do you ever meet the King Bridge Company?

A. We used to, but we have not met them much in the last few years; we used to come in competition with them.

Q. Do you compete on contracts that are let at public lettings by municipalities?

A. Yes.

Q. Have you ever met the competition of the American Bridge Company under those conditions?

A. Yes.

Q. Have you obtained, or did they obtain the business, or did neither of you obtain it at different times?

A. Part of the time we obtained it, part of the time they obtained it, and part of the time neither obtained it.

Q. Where do you buy your rivets and bolts?

A. We have bought most of our rivets from the Champion Rivet Company, of Cleveland, and we have also bought from the Inland Steel Company and the Illinois Steel Company; and I believe from the Pittsburgh Forge Company. That is rivets.

Q. Where do you buy your bolts?

A. We buy them from the Buffalo Bolt Company, I believe it is, almost altogether.

MR. SEVERANCE: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. What period of time were you testifying about?

A. Since 1902, the time we started in business.

Q. In 1902 what railroad bridges did you build?

A. Did not build any.

MR. SEVERANCE: He testified he only built railroad bridges in the last two or three years.

By MR. COLTON:

Q. What was the first year that you built any railroad bridges?

A. I don't know.

Q. What is the largest tonnage that you ever had in any railroad bridge that you fabricated in your own shops?

A. I do not know.

Q. Can't you approximate it?

A. I guess 200 to 250 tons.

Q. Then the railroad bridges that you have built, where you have done the fabrication in your own shop, have been small bridges?

A. Yes; they have not been the large bridges. We do not go out after the large tonnage. We can not handle it.

Q. You compete only for small bridges?

A. Smaller railroad bridges, yes.

Q. And you compete for small highway bridges, I suppose too?

A. We compete for any highway bridge.

Q. Highway bridges are usually smaller, anyway, in tonnage, taking them in the general run?

A. I do not know whether they are or not. They are lighter.

As a general rule, they do not have the carrying capacity of the railroad bridges, although sometimes they do, and sometimes they have less.

Q. What is the largest tonnage you ever fabricated in your own shop for use in a highway bridge?

A. I don't know.

Q. Was it as much as 300 tons?

A. I suppose so; I guess it was.

Q. Was it more than 300 tons?

A. I don't know whether it was or not.

Q. Was it more than 500 tons?

A. I don't know.

Q. Would you call a bridge having 500 tons in it, accord-

ing to your standard, a large bridge?

A. No.

Q. But you do not know whether you ever fabricated in your own shop material for as large a bridge as 500 tons, do you?

A. We have turned out more than 500 tons for one contract, yes.

Q. For one bridge?

A. Yes.

Q. What year?

A. I don't know.

Q. Can you give the bridge?

A. Well, we turned out more than that on the 18th Street viaduct there in St. Louis.

Q. What year was that?

A. 1908.

Q. What was the tonnage you fabricated in your own shop for that bridge, approximately?

A. I think, as near as I can recollect, about 700 tons.

Q. Can you recollect any case in which you fabricated in your own shop as much as 1,000 tons for use in a bridge?

A. No; I do not know as I can. We sell a great deal of material to other contractors.

Q. You fabricate some for sale to outsiders; you sell fabricated material for others to put up the bridge; is that right?

A. Yes; we sell more that way than we take the contracts for ourselves.

Q. You mentioned the fact that you purchased from the American Bridge Company, among other companies; that was fabricated material, I suppose, you purchased from them?

A. Yes; heavy girders and steel eye bars.

Q. What purchases of fabricated material did you make in 1902, in tonnage?

A. I have not the least idea.

Q. Have you any idea how much of it was fabricated and how much of it was plain, in 1902?

A. I thought we were talking about fabricated stuff altogether.

Q. Oh, you buy only fabricated material?

A. You mean how much we purchase?

Q. Yes.

MR. SEVERANCE: He did not mean to say he bought only fabricated material.

By MR. COLTON:

Q. You do not mean to say you buy only fabricated material; is that right?

A. Are you talking about purchases?

Q. I am talking about your purchases.

A. No; we buy structural material and fabricate it ourselves.

Q. Didn't you just state that you purchased fabricated material from the American Bridge Company?

A. Yes, sir.

Q. Then you buy both plain structural material and fabricated structural material, don't you?

A. Well, as I said, we bought some heavy girders from the American Bridge Company, and we have bought some steel eye bars from the American Bridge Company, and we bought some steel eye bars from the King Bridge Company.

Q. You bought heavy girders from the American Bridge Company?

A. Yes, sir.

Q. Why didn't you fabricate those heavy girders in your own shop?

A. Because we could not, without too much expense.

Q. Now, your purchases are relatively larger in plain than in fabricated, are they?

A. Oh, yes, very much larger. We only purchase from other people such stuff as we cannot make ourselves economically.

Q. Where your equipment on account of the heaviness of the material, you cannot fabricate it economically in your own shops, you buy it outside, and that is the only character of material you do buy outside; is that correct?

A. Yes, sir.

MR SEVERANCE: The only character of fabricated material that you buy outside?

THE WITNESS: That is what I mean.

By MR. COLTON:

Q. In 1902, could you give me any idea of what structural material you purchased, approximately?

A. How much?

Q. Yes, how much tonnage.

A. 1902, we did not purchase very much that year; that is the year we started in business.

Q. Could you give me any idea of what it was?

A. I do not suppose it was over 1,500 tons.

Q. Do you recollect from what different companies you solicited bids during that year?

A. Well, think Jones & Laughlin and the Carnegie Steel Company. I think those two, at the time.

Q. You think those were the only two from whom you solicited bids?

A. Yes, sir.

Q. Do you know what you paid Jones & Laughlin during that year?

A. No, I do not.

Q. Do you know what you paid Carnegie?

A. No.

Q. Did you let the contracts to the two companies at different times, or at the same time?

A. I let the contract to Jones & Laughlin.

Q. Take the year 1903; what was your tonnage that year in structural?

A. Somewhat larger, but I do not remember.

Q. What different companies did you solicit bids from?

A. I do not remember; all of them, I guess.

Q. What were they; as many as you remember, if you remember any?

A. Well, I will make an explanation to you.

Q. Won't you answer the question first and explain afterwards?

A. We do not solicit bids at all. They solicit our business. I do not suppose there is a week goes by but what the representatives of practically all the big steel companies call on us. Oh, I guess there is a week, but there is not two weeks but what they drop in to see us.

Q. Take the year 1903: what different companies making plates, that you now recall, called on you and gave you quotations on plates?

A. I guess all of them; all those that I have mentioned.

Q. I don't want you to guess. I want you to name those you can now say you recollect that called on you and submitted quotations during the year 1913.

A. I cannot state any particular one positively for 1903.

Q. Do you recall what the different quotations were during 1903?

A. No, sir.

Q. Do you recall how many of them, at any given time, quoted the same price, and how many quoted different prices during 1903?

A. No, sir.

Q. Would your answer be the same for 1904?

A. Yes, sir.

Q. For 1905?

A. I had better have that question read, I guess.

(The stenographer read the last four questions and answers.)

MR. SEVERANCE: The question is as to how many different people have quoted the same price.

MR. COLTON: During the particular year asked for.

MR. SEVERANCE: During 1903, 1904 and 1905. That is what I understand the question to be.

MR. COLTON: The first question applied to 1903, which he answered. The next question applied to 1904, which he answered. This question applies to 1905.

THE WITNESS: They all try to quote the same price if they know what the other fellow's price is, especially the bigger mills. They do not come into our office and tell us the price

of steel is so much to-day. They generally talk it over a little bit, and try to find out what we have got.

MR. SEVERANCE: What do you mean by what you have got?

THE WITNESS: What kind of prices we have got. And probably they will not try to sell us anything that day; and may be the next time the representative would come in, he would ask us to make a contract, and make a proposition. That is about the way they handle the business with us.

(By request of Mr. Colton, the stenographer repeated the last question and answer.)

By MR. COLTON:

Q. The answer and question have just been read to you. Do you understand the question, and do you mean to make the answer which you have just made?

A. I thought I understood it when I answered it. Perhaps, if there is any question, I had better have it read again.

(The question and answer referred to were again repeated by the stenographer.)

THE WITNESS: I didn't know the question only applied to 1905. I thought you were talking about times generally. I guess it will apply to all times generally.

(By request of the witness, the preceding answer was again repeated by the stenographer.)

THE WITNESS: I will not say that they were all trying to quote the same price. I do not mean that. What I mean is that each representative knows, of course, that he can not get the business at a higher price than we have already got. So, if he knows that we have a certain price, he meets it. That is what I mean by that.

By MR. COLTON:

Q. If he does not know that you have a certain price, and if others that come in to you do not know that you have a certain price—and referring particularly to the period of 1905—you do not know how many of them did, as a matter of fact, quote the same price to you, do you?

A. They generally try to find out what kind of prices we have got, and we generally tell them.

Q. And they generally quote the same price, then?

A. Yes; they always meet the price. I will change that. They do not always meet the price. I have seen a few cases when they would not meet the other fellow's price. Generally, however, the representative of the other mills will meet the price—the best price we have.

MR. SEVERANCE: Oh, they will meet the best price?

THE WITNESS: Yes.

MR. SEVERANCE: That explains it.

By MR. COLTON:

Q. Do you have any recollection as to whether there were several mills quoting you the same price or different prices during 1905?

A. I do not have any special recollection as to the year 1905; but 1905 was no exception, as I remember it, to the following years.

Q. The prices have been just as stiff since, say, 1904? Would your answer be the same for 1904?

A. Business has been conducted just along the same lines, ever since I have been in it.

Q. And the prices have been just about as close on structural material since 1904, as between the different manufacturers, as they were during the year 1904?

A. What do you mean by "close"?

Q. I mean the range between the different manufacturers in so far as there was any difference between the different manufacturers, has been just about the same during the period since 1904 as it was during the year 1904?

A. Well, yes; they have conducted the business just along the same line all the time. There has been a variation of from one to two dollars a ton for a short time, you might say, until it would be found out, and then the price would be the same again.

Q. And among the different manufacturers it would be the same again?

A. Yes.

Q. And that would continue——

MR. SEVERANCE: Mr. Colton, I object. Let him finish. He was speaking and you interrupted him.

MR. COLTON: I thought he had finished.

THE WITNESS: I would say one mill would cut the price and for a short time their prices would be lower perhaps than any other mill and in the course of a short time the other principal mills would meet this price.

By MR. COLTON:

Q. During the period of time before the other mills got onto this price they would be quoting a different price from this price that you have been speaking of as having been cut, would they?

A. Oh, yes, sure.

Q. And they would be quoting what you call the price, would they?

A. Well, sometimes you might say there would be a the price, and sometimes there would not. In times of great activity the market would usually steady down to what you might term a price, the price, and would remain that way for some little time.

Q. What do you mean by some little time?

MR. SEVERANCE: Let him finish his answer.

MR. COLTON: I think he has finished.

MR. DICKINSON: Had you finished?

MR. SEVERANCE: No, he did not finish.

MR. DICKINSON: Mr. Witness, had you finished?

THE WITNESS: Well, that is all I intended to say.

MR. DICKINSON: Then I think you had finished.

(The question was repeated by the stenographer, as follows:)

"Q. What do you mean by some little time?"

THE WITNESS: I should say three or four months.

By MR. COLTON:

Q. There have been such periods of time during the last twelve years, in respect to the price on structural material?

A. Yes, I suppose there have.

Well, it is only just, you might say, certain kinds of structural material; you could always buy under the market, what you call the price, from mills that did not furnish a full line.

Q. From the smaller mills?

A. Well, I do not know whether they are small or not; they do not furnish a complete line of what we buy. If they are just plate mills, in order to get our business they would have to cut under what might be considered the market price.

Q. And the price was the price that was generally quoted outside of these special instances that you speak of, for certain periods? Is that right?

A. That is what I was meaning. The price was supposed to be the same.

Q. And it was the price that you found generally quoted, with those exceptions, was it, for those particular periods that you have been speaking of?

A. Well, yes; you know they do not cut the price every time they come into our office.

Q. Then there is for certain periods the price, which is not cut?

A. I do not know whether it is the price; the price is steady for some little periods.

Q. Sometimes for several weeks?

A. Yes; sometimes I should say for three or four months.

Q. That is the general price for manufacturers during the period of time it exists?

A. I don't know about that.

Q. So far as you know it is?

A. I know the market is steady so far as we know for sometimes two or three months.

Q. What do you mean by "steady so far as you know"?

A. Remains the same.

Q. You mean the quotations you get are the same for those particular periods, such periods as you have just been describing, during which there was the price, as you know it?

A. We generally buy on contract. We are not in the market every day. We generally make a contract. We buy the materials about the first of the year, and specify on those contracts as we need them.

MR. COLTON: I wish to call the attention of the witness to the question, and I do not think he has answered the ques-

tion; I also call your attention to the fact that you spoke of receiving quotations frequently from the different manufacturers. I will have the question read, and I would like you to see if you cannot answer it more fully. I do not think you have covered it.

THE WITNESS: I will try to.

(The question was repeated by the stenographer as follows:)

"Q. You mean the quotations you get are the same for those particular periods, such periods as you have just been describing, during which there was the price, as you know it?"

THE WITNESS: Yes.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

JOHN T. GARRETT,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION (Continued)

By MR. COLTON:

Q. What tonnage did you buy in structural shapes during the year 1913?

A. The quantity, you mean?

Q. Yes, the tonnage; the number of tons.

A. Well, we would use, I suppose, about 6,000 tons, but we did not buy it all this year.

Q. When you used the term "structural shapes," did you use that to include such plates as you buy also?

A. Well, I do not usually use the term "structural shapes" as applying to plates.

Q. Did you just then?

A. They generally speak of plates and structural shapes, although strictly speaking, I guess plates are classified as structural shapes.

Q. Do you know what companies you took bids from in 1902 on plates?

A. In 1902 I do not think we had a contract with but one concern, and that was Jones & Laughlin. I think we got all our material from Jones & Laughlin in 1902.

Q. Do you recall having, at the time you placed your contract with Jones & Laughlin, solicited bids from any other companies in respect to plates, and if so, what companies?

A. I think it was in 1902, Jones & Laughlin and the Carnegie Steel Company.

Q. Just those two?

A. Just those two.

Q. In 1903, what different companies, in regard to plates, did you take bids from?

A. I do not remember.

Q. You do not remember what companies you took bids from or what their bids were, do you?

A. No, sir.

Q. Nor how many were alike, or how many different?

A. No, sir; I do not remember.

Q. Would your answer for 1904 be the same as for 1903?

A. Yes, sir.

Q. Your answer for 1905 in respect to plates would be the same as for 1903 and 1904?

A. Yes, sir; I do not remember how many companies we solicited bids from, or what the prices were.

Q. Or how many were alike or how many were different?

A. No; I do not remember.

Q. How about 1906; the same answers to those same questions?

A. Yes, sir.

Q. 1907?

A. Yes, sir.

Q. 1908?

A. Yes, sir.

Q. 1909?

A. Yes, sir.

Q. 1910?

A. Yes, sir.

Q. 1911?

A. Yes, sir.

Q. 1912?

A. Yes, sir.

Q. 1913?

A. The same thing.

Q. We have taken up structural material and plates; what is your total tonnage in other things than structural material and plates purchased in the year 1913?

A. I do not think we purchased anything except structural material.

Q. Do you class bolts and rivets as structural material?

A. Well, no; I would not. We did purchase paints, bolts and rivets, rods, bars.

Q. You buy bars in addition to what is ordinarily classed as structural material?

A. I do not know whether bars are classed as structural material or not.

Q. We won't bother about whether they are or not.

A. I do not think the line is very well defined.

Q. What tonnage of bars did you buy in 1913?

A. Well, I do not really know, definitely. I should say—I don't believe our bars run over ten per cent.

Q. Do you recall from what different companies you solicited bids in 1902 on bars?

A. I do not think we solicited from any company, only Jones & Laughlin and the Carnegie Steel Company. The reason I happen to remember that is because we were just starting in business then.

Q. In 1903, from what different companies did you solicit bids on bars?

A. I have not got the faintest idea.

Q. And you do not know how many of the bids were alike and how many were different, do you, for 1903 in regard to bars?

A. No, I would not know that now.

Q. And for 1904 would your answer be the same?

A. Yes, sir.

Q. And 1905?

A. You ask me how many bids were the same and how many were different?

Q. Yes, on bars.

A. I cannot give you that in any detailed way. I know only in a general way that they were different; they were not the same.

Q. You mean that they were not all the same; you do not mean that there were not two or more alike?

A. Oh, yes, there might have been; sometimes there were two or more alike, and sometimes some would be higher than those two that were alike, and some would be lower.

Q. You do not remember how many were alike in 1905 and how many were different, do you?

A. I do not remember that.

Q. How many bids did you take, all told, in 1905?

A. I could not tell you that either.

Q. Can you answer any of those questions for any of the years from 1905 to 1911, inclusive, in respect to bars?

A. No, sir.

Q. Do you now recall whether there were from time to time more quoting the same price in plates, than there were quoting the same price, when they did quote the same price, in bars; have you any recollection so as to compare those two products?

A. I believe the price of bars fluctuates a little more than it does on plates.

Q. And also more than it does on structural material, doesn't it?

A. I would not be surprised if it did.

Q. To the best of your recollection?

A. That is my impression, that it fluctuates a little more than it does on the structural material.

Q. What tonnage did you buy, outside of bars and plates and structural material, all told, in the year 1913?

A. Bars, plates and structural?

Q. Outside of that what tonnage did you buy in 1913?

A. Well, we did not buy anything to speak of except rivets

and bolts. Rivets usually run about two per cent. of the output. There is about two per cent. on bridges and buildings usually of rivets.

Q. And how did bolts run?

A. Well, sometimes there are not any bolts at all.

Q. Well, the total per cent. would be something less than three per cent. of the output?

A. Yes, sir.

Q. Now, in regard to that, then there is more variation in respect to bars than there is in respect to plates and structural; is that to the best of your recollection true of the entire period during the last twelve years?

A. I am not thoroughly posted on that, for the simple reason that we always buy our bars with the other material; it is very seldom we get prices from special bar mills on our particular requirements.

Q. The bar mills do quote you from time to time, do they not? I mean they quote you specifically on bars? Do not bar mills come in and quote you on bars?

A. Yes; sometimes.

Q. And that is the chief way in which you are informed concerning the prices on these various materials, is it not, by having these different mills come in and quote you from time to time? I think you said that; that is I understood you to.

A. Yes; that is the way we keep ourselves posted.

Q. You only let a contract once in how often?

A. Whenever we think the time is right, whenever we think we have a good thing we let a contract.

Q. Just how many times did you let your contracts during the year 1912?

A. I think we had a contract with the Illinois Steel Company, with the Cambria, with the Lackawanna, with Jones & Laughlin, the Wisconsin Steel Company and the Portsmouth; the contract we had with the Portsmouth and with the Wisconsin was with a broker; it was the same contract.

Q. It was not direct with the companies, you mean?

A. No.

Q. Referring to those that were made direct with the different companies; first, were those let at the same time?

A. No; they were not.

Q. They were each let at different times during the year?

A. Different times.

Q. During 1912?

A. During 1912 and 1913; some of them extended over 1913. I had better explain that a little more fully; we made a contract in the last half of 1912, extending to the first or second quarter of 1913. Some of our contracts were that way and some of them were for the first quarter of 1913; and some of them, I believe, were for the first half of 1913.

Q. When was this contract with the Illinois Steel Company made in 1912?

A. Sometime in the fall of 1912; I don't remember when. To the best of my recollection along in October.

Q. Do you remember the tonnage?

A. No; I do not.

Q. Do you remember the base price?

A. No.

Q. The Cambria contract; when was that made?

A. I think along in the fall of 1912.

Q. Do you remember the tonnage?

A. I do not.

Q. Do you remember the price?

A. I do not.

Q. And the Lackawanna contract; when was that made?

A. Well, we had two contracts with the Lackawanna.

Q. When was the first one made?

A. Some time in 1912; I do not remember just when.

Q. Is that as close as you can come to it?

A. August or September, some time along there.

Q. The first one was made some time in August or September; when was the second one?

A. The second one was made I think in April or May of this year.

Q. It was not made in 1912 at all, then?

A. No, I say we had two contracts covering our require-

ments for this year, one made in 1912 and the other during this year.

Q. When was the contract with Jones & Laughlin made?

A. That was made in 1912.

Q. About what time?

A. Along in the fall; I don't remember just when.

Q. All these contracts you have named so far that were made in the fall, did they all relate to tonnage that you expected to take out in 1913?

A. Yes.

Q. When were the contracts with the different brokers who may have dealt for Wisconsin and Portsmouth, when were those two contracts made in 1912?

A. My impression is along in the fall, but I am not clear on that.

Q. That is your best recollection?

A. Yes.

Q. All those contracts were made in the fall, to the best of your recollection?

A. Yes.

Q. Now, what are the contracts you made in the year 1912?

A. I don't remember; we had contracts for the early part; I suppose we made more or less contracts during 1912, but I don't remember what they were. If I had known you wanted this I would have looked it all up.

Q. You do not now recall that you made any contract, definitely, so that you can refer to them, between January 1st, 1912, and December 1st, 1912, other than those you have given me; is that right?

A. Well, I don't recall any specific contract, although I know we did make contracts.

Q. Now, in the fall of 1911, did you make a series of contracts somewhat the same as you made in 1912?

A. I think so; I am not sure. Sometimes we do not make contracts; unless it looks as though the material would probably go up, we would rather not make contracts; we would rather pit one against the other and take our chances on being in the market.

Q. You cannot give me the price on a single contract in 1912, can you, that you paid?

A. I can give the price on one. The only one I remember was the last one we made with the Lackawanna.

Q. What tonnage was that?

A. I think it was 1,000 tons.

Q. What was the base price?

A. $1.50 Pittsburgh.

Q. A base price of $1.50?

A. Yes.

Q. Was that on bars?

A. No; that was—bars were five cents less. I think the contract specified that bars were five cents less.

Q. Was it on plates or structural iron?

A. Bars and plates, I am pretty sure—I mean, angles over three inches, beams, channels, I-beams and plates were the same price. I-beams over 15 inches took the 10 cents advance.

Q. Ten cents extra?

A. Ten cents extra.

Q. Over 15 inches, did you say?

A. Yes.

Q. Took ten cents extra?

A. Yes.

Q. Then the price on 15 inches and over was $1.60 at that time?

A. Yes; and I think that under three inches, my recollection is that it was $1.45.

Q. I may have misunderstood you, but I did understand you to say that you did, as a rule, contract either in the spring or fall for tonnage for a number of months ahead; that that was your usual practice?

A. I think we have followed that method oftener than we have followed any other method, although we do not have any established practice. If we think the material is going up, we try and contract for it. If we think there is more prospect of its coming down, we do not contract; that is, we do not contract at high prices. When prices get down pretty low, and it looks as though prices are going to advance, why, we contract.

Q. Do you always guess it right?

A. Well, you cannot guess wrong with the mills, because they always protect the quotations of—any good reliable quotation, they seem to protect it.

Q. In other words, if they should bid $1.60 on a certain tonnage in the first part of the year, and it should drop to $1.20, the mill would take care of you, as a matter of courtesy?

A. They do.

Q. Not as a matter of contract?

A. Not as a matter of contract, but as a matter of courtesy.

MR. COLTON: That is all.

REDIRECT EXAMINATION.

By MR. SEVERANCE:

Q. Just one question, so I will be sure I understand you. You have two ways, as I understand it, of buying. Sometimes you make contracts for a specified tonnage, with the privilege of specifying against that from time to time until it is used up?

A. Yes.

Q. And at other times you buy your requirements as you need them from time to time, in the market?

A. Yes.

Q. That is, just what you want to use at the time?

A. Yes.

Q. In both cases, as I understand you, you secure bids from the different mills?

A. Oh, yes.

Q. And those bids that you secure, in either case, when you are asking for bids preliminary to entering into a contract, or when you are asking for bids on a particular tonnage that you want, do the bids from the different mills come in varying or uniform to you?

A. They vary.

MR. SEVERANCE: That is all.

RECROSS EXAMINATION

By Mr. Colton:

Q. The bids vary, and have during the past twelve years, you say, but you cannot tell how many are alike or how many are different, as I understand you?

A. No, I could not tell that now. I would not undertake to do that, because I would probably misrepresent things. If I had known you wanted that, I would have looked that all up. We have a record of the whole thing.

Mr. Colton: That is all.

Mr. Severance: That is all. Mr. Woodruff.

CHARLES A. WOODRUFF

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance.

Q. Where do you reside, Mr. Woodruff?

A. Detroit, Michigan.

Q. What is your business?

A. Buyer for the Chalmers Motor Company.

Q. How long have you occupied that position?

A. Four years and over.

Mr. Dickinson: Could you just state what it is?

The Witness: Four years the 1st of December.

Mr. Dickinson: This December?

The Witness: Yes.

By Mr. Severance:

Q. Previous to four years ago, or the 1st of December, what was your business?

A. Buyer for the National Cash Register Company at Dayton, Ohio.

Q. How long did you occupy that position?

A. About three years.

Q. Previous to that, what was your business?

A. Assistant purchasing agent for Armour & Company, Chicago.

Q. And how far back of that date? As far back as 1901?

A. 1899.

Q. What?

A. 1899.

Q. Have your methods of purchasing been the same with these three different concerns? I am asking you now for the period beginning in April, 1901, when the Corporation was formed, down to the present time, have your methods of purchasing been the same, or have they differed with these three different concerns?

A. About the same.

Q. Do you buy steel?

A. Yes, sir.

Q. Taking up first the Chalmers Motor Company, what classes of steel do you buy for them?

A. Cold rolled shafting, bars, drill rods, wire, springs, sheets, and a few shapes.

Q. And what classes of steel did you buy when you were with the Cash Register Company?

A. Practically the same things.

Q. And when you were with Armour & Company?

A. Well, that ran more to bars, and some structural and sheets, very largely.

Q. Did you buy any tin plate when you were with Armour?

A. Some; yes, although I did not buy the tin plate for any length of time.

Q. Oh, you did not buy that?

A. No, not for any length of time. I did, some of it.

Q. Have you made any purchases for these different companies from the subsidiaries of the United States Steel Corporation?

A. I have.

Q. Which ones have you bought from since you have been purchasing agent for the Chalmers Company?

A. American Steel & Wire Company, and American Sheet & Tin Plate Company, some. Those are the two principal concerns.

Q. What is that?

A. I say those are the two principal concerns; they are the two principal subsidiaries.

Q. What have you bought from the American Steel & Wire Company?

A. Springs, strip steel, cold rolled shafting, special analysis shafting or screw stock, wire, springs; those are the principal items.

Q. Have you bought any nails?

A. No, not for Chalmers.

Q. In making your purchases of the classes of steel products that you stated you purchased from the American Steel & Wire Company, have you received quotations from different manufacturers?

A. I have.

Q. Have you bought for the Chalmers Company and of these requirements from persons other than the American Steel & Wire Company?

A. I have.

Q. From whom?

A. Some from Jones & Laughlin, some from Union Drawn Steel Company, some from the Carpenter Steel Company, and some from the Standard Gauge Steel Company.

Q. What classes of these commodities have you bought from J. & L.?

A. Screw stock principally.

Q. Is that an important or an unimportant branch of your purchases?

A. It is a very important branch just now.

Q. What is your annual tonnage in that for the Chalmers Company?

A. About 1,500 tons.

Q. What have you bought from the Union Drawn Steel Company?

A. The same class of material.

Q. And from the Carpenter Steel Company—where are they located?

A. I cannot tell you; I have forgotten.

Q. Do they have an agent in Detroit who comes to see you?

A. Yes, sir.

Q. And what have you bought from the Carpenter Company?

A. Screw stock.

Q. Then you spoke of the Standard Gauge Steel Company?

A. Yes, sir.

Q. Where are they located?

A. At Beaver Falls.

Q. What have you bought from them?

A. Screw stock.

Q. In making your purchases of screw stock have you invited quotations from the different manufacturers?

A. Always.

Q. Have you placed your orders on a competitive basis?

A. Usually, yes; not altogether, though.

Q. Have the quotations made to you by the different companies varied or been uniform?

A. They vary a greater part of the time; there is a difference.

Q. And you say you have not always placed your requirements on a competitive basis; will you kindly explain what you mean by that, what is the explanation?

A. It has been our experience that the screw stock made by the American Steel & Wire Company is very much better in quality than that made by most of the other companies, and it is considerably better. It works up better than the screw stock made by most of the concerns, and therefore it is worth a little more money.

Q. Do you mean where you have not placed it on a competitive basis you have paid them more than the others bid for it?

A. In some cases, yes, but it is cheaper in the end, cheaper

in the manufactured product, even though it does cost a little more in the first place.

Q. Have you bought anything else in these lines that are made by the American Steel & Wire Company from any of these four companies that you mentioned?

A. Not for the Chalmers Motor Company, no.

Q. What are your tonnage requirements in steel for the Chalmers Company? You say it was 1,500 tons of screw stock. What is there of the balance?

A. Well, I should say about 250 tons of bars and miscellaneous steel products.

Q. Altogether?

A. Altogether.

Q. That would include not only the other commodities made by the American Steel & Wire Company, but also other steel products made by different subsidiaries?

A. Yes, sir.

Q. Your annual requirements, then, altogether are about 1,750 tons, of which 1,500 is screw stock?

A. I said 1,500 of screw stock and about 250 tons of other stock.

Q. That makes 1,750 tons altogether, of which 1,500 tons is screw stock; that is correct, isn't it?

A. Yes, sir.

Q. What have you bought from the American Sheet & Tin Plate Company for the Chalmers Company?

A. Some sheets and also some armature steel.

Q. Have you bought any of that class of steel from other people outside of the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. From whom?

A. From the American Rolling Mill Company principally.

Q. Has that business been placed on a competitive basis?

A. Yes, sir.

Q. Do you secure quotations?

A. Yes, sir.

Q. Are those quotations alike or different?

A. They vary.

Q. You spoke of buying some cold rolled shapes from the American Steel & Wire Company?

A. Yes, sir.

Q. Is that an important or unimportant branch?

A. That is a minor matter; it don't amount to very much.

Q. Can you give an idea how much a year?

A. It only runs to a few tons, a very few tons.

Q. Did you say cold rolled shafting or shapes?

A. I said we bought some shapes, but I did not mean to say that we bought those shapes from the American Steel & Wire Company.

Q. You did not?

A. I don't think I said that.

MR. DICKINSON: Did you mention shafting?

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. I will ask you about cold rolled shapes; from whom do you buy that?

A. We buy that usually from—I have forgotten the name of that concern that I bought shapes from. I will think of it in a few minutes if you will ask me again.

Q. Just state what the commodities are other than sheets, armature steel and screw stock that you buy from—that is, the quantity, I mean, in tons, that you buy from the Steel & Wire Company or the Sheet & Tin Plate Company?

A. What is that?

Q. What tonnage is there outside of screw stock and armature steel that you buy from the Steel & Wire Company or the Sheet & Tin Plate Company?

A. There is very little outside of that.

Q. That is very unimportant?

A. Very unimportant, yes, sir.

Q. Do you buy any of this wire that you require, that you mentioned, from corporations outside of the two subsidiaries?

A. Yes.

Q. From whom do you buy wires?

A. From the Rome Copper & Brass Company just now,

that is, brass wire, and the Simplex Electrical Company of Boston.

Q. Do they make a product similar to the products of the American Steel & Wire Company?

A. Yes, sir.

Q. Do you place your orders for that on a competitive basis?

A. Usually; yes, sir.

Q. Do you buy wire rope?

A. I have bought wire rope.

Q. I mean, do you buy it for the Chalmers Company?

A. No.

Q. Have I practically covered everything you bought for the Chalmers Company in these questions?

A. Yes.

Q. Take the requirements of the National Cash Register Company; what were they in tons per year, of all classes of steel?

A. It is some time since I have been there, but I should say, offhand, it would be about 3,000 tons.

Q. What was your practice when you were with the National Cash Register Company as to receiving quotations, when you placed orders for steel products?

A. On the steel products their orders were so placed, for the first year and a half that I was there, on the basis of price alone.

Q. How was it after that?

A. We had to consider quality after that.

Q. And did you, therefore, at times place your orders with some one other than the lowest bidder?

A. Yes, but not at any great advance.

Q. Did you always get quotations?

A. We always got quotations.

Q. What were those, varying or uniform?

A. They were varying.

Q. Does the Chalmers Company use any piano wire? I forgot to ask you?

A. No.

Q. Did the National Cash Register Company use any piano wire?

A. Yes.

Q. In considerable quantities?

A. It did not run into much in tonnage.

Q. But in dollars?

A. In dollars, it ran into a good deal.

Q. What is that used for?

A. That was used for making springs.

Q. From whom did you purchase your piano wire, when you were with the National Cash Register, and what tests, if any, did you make of that wire?

A. The latter two years we bought it nearly all from the American Steel & Wire Company. Previous to that we had been buying German wire and also English music wire, and we were having a lot of trouble with those springs. You probably have noticed in a cash register a key that is pushed when they make a registration. Under that is a spring that is compressed very tightly. It comes close together, and we had a great deal of trouble with those springs breaking, and we finally made tests on those springs, compressing them for a while until we broke them, where they enter in a row.

Q. Did you try any American wire in these tests; I mean outside of the American Steel & Wire Company.

MR. DICKINSON: I object to that as irrelevant.

THE WITNESS: We bought Poelman's German wire, and Smith's English wire, and music wire made by the Trenton Iron & Steel Company, wire made by the Wright Wire Company, and the American Steel & Wire Company's wire.

By MR. SEVERANCE:

Q. Did you try any Spencer wire?

A. Yes, we had Spencer wire, and we had several brands—I do not know who the makers were.

Q. What was the result of those tests?

A. The tests ran all the way from 25,000 compressions to 300,000, and some of the springs were in good condition at the end of 300,000 compressions, and those were the wires we

finally decided on buying, and that happened to be the American Steel & Wire Company's wire.

Q. Was that the reason you made your purchases from them for the last two years?

A. Yes.

Q. Did you get quotations on other wires during that two years?

A. We did.

Q. And how were those quotations on other wires, as compared with the Steel & Wire Company's price that you paid; were they the same or varying?

A. They varied.

Q. Do you recall which was the cheaper, whether the American Steel & Wire Company, or the other quotations you got?

MR. DICKINSON: I object to that as irrelevant.

THE WITNESS: My impression is now that the American Steel & Wire Company's wire was cheaper than any of the other wires.

By MR. SEVERANCE:

Q. Cheaper?

A. Yes.

Q. You testified that you purchased screw stock for the National Cash Register also, did you?

A. Yes.

Q. How extensive were those purchases?

A. That was about 1,500 tons a year.

Q. About the same as for the Chalmers Company?

A. About the same.

Q. And from what different concerns did you receive quotations on screw stock for the Cash Register Company?

A. Jones & Laughlin, the Columbia Steel Company, the Union Drawn Steel Company, and the Standard Gauge Steel Company.

Q. And from the American Steel & Wire Company?

A. The American Steel & Wire Company.

Q. What was the fact as to whether those quotations were uniform or varying?

A. Oh, they varied; always varied.

Q. Have you any recollection as to who got the larger part of your requirements at that time?

A. Well, for the last two years I was with the National Cash Register Company, the American Steel & Wire Company got practically all of it.

Q. Now, is this commodity that you are speaking of the same as the cold rolled strips?

A. No, it is different.

Q. Explain your experience in buying cold rolled strips.

MR. DICKINSON: For what company?

MR. SEVERANCE: Did I ask you about that for the Chalmers Company?

THE WITNESS: No.

By MR. SEVERANCE:

Q. I do not think I did. Well, state what the facts are with reference to Chalmers and the National Cash Register Company, both.

A. For the Chalmers Company, we did not use very much cold rolled strips, and what we did we got from the American Steel & Wire Company, and the reason for that is that we got a much more uniform product in thickness, which is necessary in this line of business, than we can get from other people. For the National Cash Register Company they use strip steel, the cold rolled strips, in very large quantities. That is, their requirements are about 1,500 tons a year, and we bought that for a long time. When I first went there they had a contract with the Superior Steel Company, of Carnegie, Pennsylvania, for that stuff, and afterwards, on account of a very much lower quotation from the American Steel & Wire Company, we were compelled to consider them, and about that time they brought out a process of making this strip steel in rolls.

MR. DICKINSON: Who brought out?

THE WITNESS: The American Steel & Wire Company; they brought out this strip steel in rolls, which greatly decreased the cost of manufacturing. We used to buy it in strips say

eight to ten feet long, and of course you know every one of those strips had to be handled by a man in the press. After these long strips came out, by the American Steel & Wire Company, we put it on a roll, and the machine fed itself, which reduced the cost of operation on the steel, which was very much better on that account, to say nothing of the difference in price.

By Mr. Severance:

Q. So that you had a better quality and a lower price both, did you?

A. Exactly.

Q. How long were these coils or rolls?

A. It would depend on the thickness of the steel. Steel, say, that was 112 thousandths thick, that would run along three or four or five hundred feet in the roll. When it came to stuff 250 thousandths, it might be 150 feet.

Q. And how long were the strips that you formerly got?

A. Eight to ten feet.

Q. Do you still buy that class for the Chalmers Company?

A. No.

Q. Whom did you buy from for the Chalmers Company?

A. Strip steel?

Q. Yes.

A. We buy it from the American Steel & Wire Company.

Mr. Dickinson: He has already stated that.

By Mr. Severance:

Q. As I understand you to say, for the Chalmers Company that is comparatively small?

A. A very small item, yes.

Q. Do you buy any tubes now, or did you buy any at any time?

A. We are buying some steel tubing now, yes, and I have bought——

Q. (Interposing) For the Chalmers Company?

A. For the Chalmers Company, yes; and I have also bought some steel tubing for the National Cash Register Company, and also a good deal of pipe and tubing for Armour & Company; principally pipe for Armour.

Q. What kind of tubing do you buy for the Chalmers Company?

A. Seamless steel tubing.

Q. From whom do you buy that?

A. From the Ohio Seamless Tube Company.

Q. Have you always bought from that company?

A. Well, we buy a little from the National Tube Company too.

Q. Do you buy the bulk from the Ohio?

A. The bulk from the Ohio, yes.

Q. Where are they located, do you remember?

A. Shelby, Ohio.

Q. How are the prices of the Ohio as compared with the National; higher or lower?

A. They are a trifle higher.

Q. What is your object in buying from them at higher prices?

A. One of the unfortunate things in the automobile business is that these men that specify for material do not always see quite far enough ahead, and with the National Tube Company it is impossible to get hem to give you short deliveries when they are rushed or when they have other orders ahead, and the Ohio Seamless Tube Company have been very partial to the automobile manufacturers, and will always help them out in case of emergency, and that is worth thousands of dollars sometimes to the automobile manufacturers.

Q. You get quicker deliveries in that way?

A. Quicker deliveries, yes.

Q. Do you use any Detroit Seamless tubing?

A. We did at one time, but had to discontinue it on account of the quality of it. It could not be used. I do not think they could make tubes for automobile people.

Q. What?

A. I say I do not think they could make tubes for automobile people.

Q. Have you given me, now, all the steel products that you bought for the Cash Register Company, as far as you can remember?

A. Except possibly a few steel bars.

Q. Where did you buy them?

A. Oh, from Carnegie, and the Lockhart Iron & Steel Company, Cambria, and some from Jones & Laughlin.

Q. Was that an important part of your purchases, or unimportant?

A. No, that was an unimportant part.

Q. Did you make those purchases on a competitive basis?

A. Yes, sir.

Q. Now, take your purchases for Armour & Company from 1901 up to the time you went with the Cash Register Company; what did you buy for them, what classes of steel?

A. Sheets, black and galvanized, bar steel, some screw stock, pipe and fittings.

MR. DICKINSON: What is that?

THE WITNESS: Pipe and fittings; nails, band iron, bale ties, wire rope, insulated wire, coppered wire for baling purposes.

MR. DICKINSON: For what kind of purposes?

THE WITNESS: Baling; bale wire. Those are the principal things I think of at the present time.

By MR. SEVERANCE:

Q. You said you did not buy the tin plate?

A. Well, I only bought tin plate in a small way at one time.

Q. Take the matter of sheets; from whom did you buy your sheets for Armour & Company?

A. Very largely from the American Sheet & Tin Plate Company.

Q. Did you buy from anyone else, as far as you remember?

A. Yes, a few sheets from Follansbee, and some from the Berger Manufacturing Company. Those are the manufacturers.

Q. Did you make those purchases on a competitive basis?

A. Always.

Q. Pipes and fittings, from whom did you buy those?

A. Crane Company, LaBelle Iron Works, National Tube Company, Reading Iron Company, and that Kewanee concern; what is that, Mr.——

Q. (Interposing) That now belongs to the National Tube.
A. Yes; I know it does, but what was their name?
Q. Western Tube Company.
A. Yes, the Western Tube Company.
Q. Was that business placed on a competitive basis?
A. Always.
Q. Were the quotation varying or uniform?
A. They varied a great deal.
Q. From whom did you buy your nails?
A. The American Steel & Wire Company, usually.
Q. Did you get quotations on nails?
A. Yes, sir.
Q. And from how many people?
A. Oh, three or four each time.
Q. Did they vary or were they uniform?
A. They varied.
Q. About how much per keg?
A. Well, all the way from two and one-half cents to, sometimes, as high as ten cents a keg.
Q. Did you place those orders on a competitive basis?
A. Always.
Q. You spoke of band iron, did you?
A. Yes.
Q. Is that iron or steel?
A. That is steel.
Q. And bale ties?
A. That is steel.
Q. And from whom did you buy your band iron?

MR. DICKINSON: Band iron do you call that?

MR. SEVERANCE: Band iron. He says it is made out of steel, but he calls it "band iron."

THE WITNESS: The Republic Iron & Steel Company, and the Sharon Steel Hoop Company.

By MR. SEVERANCE:
Q. Was that placed on a competitive basis?
A. Always.
Q. Varying or uniform quotations?

A. Oh, the prices varied.

Q. And bale ties, where did you buy them?

A. From the American Steel & Wire Company, and C. S. Blakelee.

Q. Who is C. S. Blakelee?

A. They are a concern that make bale ties, in Chicago.

Q. Were those orders placed on a competitive basis?

A. Always.

Q. Take these various things that you bought for Armour; how many tons did you buy in sheets per annum?

A. It is so long ago that any estimate on that would only be approximate. I should say possibly 200 tons a year.

Q. What did they use that for?

A. They used it for various things; for refrigerators and refrigerator cars, and for making pans and tanks around the factory.

Q. What was their tonnage in screw stock, approximately?

A. Very small.

Q. You say their tonnage in pipe and fittings—how was that?

A. That was a very large item.

Q. Can you give an estimate of how much of an item it was?

A. Of course, it depended a good deal on how much building they were doing, some years at times I bought anywhere from a half a million to a million and a half feet of one-sized pipe at a time.

Q. And fittings to go with it?

A. Fittings to go with it; yes, sir.

Q. I mean sufficient fittings to take care of it?

A. Yes, sir. Of course when we were remodeling refrigerators, or putting up a new house, sometimes it ran large, and at other times it ran small.

Q. This is Armour & Company, the pork packers?

A. Yes, sir.

Q. Take nails; was that a large or small item?

A. They used a lot of nails at their box factory, at their packing house, a carload every two weeks.

Q. How about band iron?

A. They used a good deal of band iron for strapping boxes; that is, steel.

Q. Was that an important tonnage, in amount?

A. 100 tons a year, I should say.

Q. How many bale ties would you say they used?

A. That was not a very large item, not in tonnage or in dollars and cents.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Mr. Woodruff, you have answered in response to a number of questions, about buying these various commodities for these various persons whom you have represented, that you bought them all on a competitive basis.

Mr. Severance: No, he did not say "all"; you misunderstood it.

Mr. Dickinson: I have got it down that he bought all bale ties on a competitive basis, that he bought all of the band iron on a competitive basis.

Mr. Severance: I do not mean he did not buy all of certain lines. Your question indicated that he said he bought all his requirements on that basis.

Mr. Dickinson: That is what I understood him to say.

By Mr. Dickinson:

Q. Did you say that or not?

A. I did not.

Q. What did you refer to, then, and what did you mean to cover in your purchases for Armour when you said you bought on a competitive basis? What did you buy on a competitive basis for Armour?

A. Everything for them.

Q. Then when you bought for the Cash Register, what did you buy on a competitive basis?

A. Nearly everything except screw stock.

Q. Then when you bought for the Chalmers Company what did you buy on a competitive basis?

A. Everything except screw stock.

Q. So, then, you did mean to say that with the exception of screw stock for Chalmers and the National Cash Register, that you bought everything that you bought for all three of those concerns on a competitive basis?

A. I would not say that; there might be some exceptional cases, which would only go to prove the rule.

Q. You have said it, though, haven't you? Now, do you wish to unsay it?

A. No.

Q. No what?

A. I do not wish to unsay it. I just wanted to qualify it a little; that is all.

Q. How far do you qualify it?

A. As far as I have.

Q. I don't understand. Let us make it clear.

A. I said there might be a few isolated exceptional cases where that was not true.

Q. Do you remember any?

A. Not just now, no.

Q. Can you say that there were or that there were not?

A. I should say that there were.

Q. Do you say it because you remember them? If you do, just tell which ones you remember.

A. I say that to qualify the statement I made.

Q. I want you to qualify and state where you remember the qualification.

A. I cannot answer that any further.

Q. So you cannot give any further information about that, and say that you remember any instances where you bought, leaving out screw stock, other than on a competitive basis?

A. No; I cannot give any more information.

Q. How long since you were with Armour & Company?

A. I left them in 1906.

Q. Now, when you have spoken of buying for Armour on a competitive basis, what do you mean by the expression "competitive basis"?

A. I mean that we invited bids from different people and got them down in price just as low as we possibly could.

Q. Did you buy by contract or buy from time to time as your necessities required?

A. From time to time as necessity required.

Q. Never by contract.

A. Bought what by contract?

Q. What you bought of these things for Armour & Company.

A. What do you mean, buying by contract?

Q. Do you understand what a contract is? Did you make any written contracts? I will put it that way.

A. There was a written order given for everything we bought.

Q. You never bought any by telephonic order?

A. There was always a written confirmation of the telephone order.

Q. Then you sometimes did buy by telephone and confirmed it in writing, did you?

A. Yes.

Q. Did you ever make any telephonic orders upon quick demand as emergency arose in your business?

A. Not without confirming it.

Q. No, but you did buy such, and did confirm it, did you?

A. Yes, sir.

Q. On such occasions, do you say that you always got competitive bids?

A. Well, the answer to that might be misleading. I had rather not answer that question.

Q. You decline to answer it, then, do you?

MR. SEVERANCE: He has not declined.

THE WITNESS: I have not exactly declined.

By MR. DICKINSON:

Q. I will put it up to you, and let you answer it or not.

A. If it does not make any difference to you, I would rather not answer it.

Q. Then I will ask you some more. How many transactions did you have for the various kinds of purchases that

you made for Armour & Company while you were with them? Have you any idea?

A. I have not.

Q. It extended over a period of how many years?

A. About seven years.

Q. It was a very large concern, Armour & Company?

A. Yes, sir.

Q. They had a great many requirements in these various things, didn't they?

A. They did; yes, sir.

Q. And you bought a great many of the things from time to time as necessity arose?

A. I did.

Q. During that time didn't you have hundreds and hundreds of transactions?

A. Yes.

Q. Probably hundreds and hundreds each year?

A. Yes, sir.

Q. Do you claim that you remember now in respect of each one of those transactions, that you made no purchases without taking competitive bids?

A. I will answer that by saying that I made very few purchases on which I did not have prices from more than one concern on the item.

Q. Do you mean to say that on all these emergency orders such as you have described, that after you determined to make those orders, you made no purchases without getting prices from more than one concern?

MR. SEVERANCE: I object to that because it was Judge Dickinson who described emergency orders, and the witness did not assent to it.

MR. DICKINSON: Read my last question.

(The question was repeated by the stenographer as follows:)

"Q. Do you mean to say that on all these emergency orders such as you have described, that after you determined to make those orders, you made no purchases without getting prices from more than one concern?"

By Mr. Dickinson:

Q. Didn't you say that you did make emergency purchases?

A. Yes, sir.

Q. You stated that to me heretofore in your examination?

A. Yes, sir.

Q. Then there were emergency orders, weren't there?

A. Yes, sir.

Q. Now, I will repeat the question and ask you to answer it.

A. I did answer it, didn't I?

Q. I thought you were stopped by counsel and criticised for saying emergency orders.

A. I do not believe that I placed any orders without having more than one price. Whether it was got at that time or not, I would not say the price was got at the time the emergency order came up, but I knew what the prices were from more than one concern at the time I placed the order; otherwise I would not place it.

Q. Well, you kept generally posted, I suppose, as to prices, did you not?

A. Yes, sir.

Q. Did those prices sometimes run pretty constantly over periods?

A. Oh, yes, yes.

Q. And you on account of that would not feel it necessary at all times when you were going to make a purchase to make a new inquiry as to that particular purchase?

A. That would depend very largely on what the item was.

Q. Some of those items were steady, were they not?

A. Yes.

Q. Do you know what percentage of those items were that way and what were not, of all your purchases in any one year?

A. That the price was comparatively steady, you mean?

Q. Yes.

A. No, I couldn't answer that.

Q. Now, Mr. Woodruff, you cannot now tell, during that

period, as to any purchase that you took bids on that, can you, as to any particular purchase?

A. I can.

Q. Now, just tell me one, in the first year you went with the Armour Company.

MR. SEVERANCE: I object to any testimony, as not cross examination, that antedates the year 1901. I examined him only as of that time; I specifically limited my inquiry to the time subsequent to April, 1901.

By MR. DICKINSON:

Q. Take 1902; just leave your memorandum out, I don't want you to use that—just take in 1902, and state what purchases you now carry in your mind and can state that you distinctly remember that you made in that year for Armour & Company, where you solicited prices, and state if you can from whom you solicited them and on what commodity?

A. I couldn't answer that without reference to some of my memoranda.

Q. Do you carry in your mind any such instance in the year 1903?

A. No, sir.

Q. Or 1904?

A. No, sir.

Q. Or during any time you were with Armour & Company?

A. No, sir.

Q. Now, coming down to the National Cash Register Company, what proportion of your tonnage of steel products while you were with the Cash Register Company was bought from the subsidiaries of the United States Steel Corporation in the various years you were with them?

A. The first year very, very little.

Q. What year would that be?

A. That would be 1907.

Q. Very little. Well, 1908.

A. Very little.

Q. And 1909?

A. I should say half.

Q. 1910?

A. The first year would be 1906, with them, I think.

Q. I am asking you about 1910; I will come back to 1906.

A. I was not with them in 1910.

Q. Well, now, in 1906.

A. None at all that I know of.

Q. You did all the purchasing in that year, did you not?

A. 1906?

Q. Yes.

A. No; I did not go there in 1906.

Q. You said a while ago 1906 was the first year that you went with them, did you not?

A. Well, it was either December, 1906, or January, 1907, that I went with them.

Q. When you said 1906 as being the first year, a while ago, you did not mean to say that it was a year in which you had anything to do with purchases, so that 1907 was the first year?

A. In 1907, 1908 and 1909; those were the three years that I was with them.

Q. In 1907 what tonnage did that company buy of steel products, such as you have described their having bought?

A. From two to three thousand tons.

Q. Now, just state from whom they bought that two or three thousand tons.

A. The Union Drawn Steel Company, Columbia Steel & Shafting Company, I think the concern is; and the Superior Steel Company.

Q. Now, have you named all?

A. The volume went to those three concerns.

Q. I am asking you to name all, though.

A. I cannot.

Q. Do you know whether you bought any that year from the subsidiaries of the United States Steel Corporation?

A. Buy anything from them?

Q. Yes.

A. I couldn't answer that.

Q. You could not say whether you did or did not?

A. No.

Q. Could you say you bought anything from them in the year 1908?

A. I could not say that either.

Q. Well, now, the Chalmers Company I suppose claim to make a very good automobile?

A. Pretty good.

Q. You tell the trade that?

MR. SEVERANCE: He is not in the selling end, Judge; he does not have to make any claims.

By MR. DICKINSON:

Q. You have to provide the material for these other people to dilate on in pushing the trade?

A. Yes.

Q. Now, this inferior screw stock; how much of that did you use in your automobiles the first year you were there?

A. I could not tell in actual tons on that.

Q. How much of that inferior screw stock was used in 1911?

A. I couldn't answer that.

Q. How much of that inferior screw stock did you use in your automobiles in 1912?

A. Very little.

Q. How much in 1913?

A. Very little.

Q. You aim to get the best, do you not?

A. Yes.

Q. As a matter of fact didn't you get the bulk of your screw stock during those years from the American Steel & Wire Company?

A. Yes.

MR. SEVERANCE: Which year?

MR. DICKINSON: All the years he has been with the Chalmers Company. You understood that that way did you not?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. What percentage of screw stock in 1910 did you get from the American Steel & Wire Company?

A. I couldn't tell you; a very large per cent. though.

Q. Ninety per cent.?

MR. SEVERANCE: What does he say, superior or inferior?

MR. DICKINSON: Inferior; you understood me, did you not?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. 90 per cent.?

A. I should say it was over 80.

MR. SEVERANCE: What was over 80?

THE WITNESS: The percentage of American screw stock.

By MR. DICKINSON:

Q. In 1911 what percentage of screw stock did you get from the American Steel & Wire Company?

A. I would like to correct that statement as to 1910—about 50 per cent.

Q. About 50 per cent.?

A. Yes.

Q. So in 1910, then, you used in your automobiles 50 per cent. of this inferior screw stock, did you?

A. Yes, sir.

Q. When did you begin to improve them in that respect?

A. Well, we were improving all the time.

Q. In 1911 what percentage did you buy from the American Steel & Wire Company of screw stock?

A. I should say at least 50 per cent.

Q. What?

A. At least 50 per cent.

Q. Was it more than 50?

A. I cannot answer that.

Q. You cannot say whether it was more than 50?

A. No.

Q. Well, in 1912 can you say?

A. I should say it was over 50.

Q. How much?

A. Over 50.

Q. Is that all you can say?

A. That is all.

Q. You cannot give any figures between 50 and 100?

A. I am not going to.

Q. I will see whether you will or not. I will ask you if it was 60.

A. I do not know.

Q. Was it 70?

A. I do not know.

Q. 80?

A. I do not know.

Q. 90?

A. I do not know.

Q. 100?

A. I do not know.

Q. So you do not know whether in the year 1912 you bought all your requirements of screw stock from the American Steel & Wire Company?

A. I do know.

Q. Well, you said just now you did not know, did you not?

A. No, I did not say I did not know.

Q. You said you did not know whether it was 100 per cent., did you not?

A. I said that, yes.

Q. Well, 100 per cent. means all, does it not?

A. Yes.

Q. Then did you not say you did not know whether you got 100 per cent. from them or not?

A. I did.

Q. And you understood the question, did you not?

A. Yes, sir.

Q. Well, what do you say now about it, that you do or do not know?

A. I have answered the question that you asked me.

Mr. Colton: You have answered it two ways.

By Mr. Dickinson:

Q. I would just like to know now which answer you want to stand by, whether you say that you do or do not know that you got 100 per cent. of your screw stock in 1912——

A. (Interposing) You have a technical question there that you are trying to get me tangled on and I do not want to answer it. You can draw your own conclusions as to what I know about it.

MR. DICKINSON: Well, I have already drawn them. I will tell you that very frankly, since you have made that remark.

By MR. DICKINSON:

Q. You think it is a technical question that asks whether you got 100 per cent. of any requirement in any one year——

A. (Interposing) Why, a thing like that is very hard to answer. If we used, say, a thousand tons of screw stock and we ran short of one size, and went downtown and bought one bar of screw stock we would not get all of the American screw stock, so that I am trying to provide for an occasion of that kind.

Q. So you are trying to leave a leeway for one bar, are you, or something like that?

A. Well, one bar, or——

Q. (Interposing) Well, all except some immaterial thing of that sort, you got from the American Steel & Wire Company in 1912, did you not?

A. Oh, no.

Q. What did you get, that you know, in 1912, from others than the American Steel & Wire Company, of screw stock?

A. We got some from the Union Drawn Steel Company.

Q. Do you know how much?

A. No, sir.

Q. From whom else did you get any?

A. I do not remember.

Q. So if you got from anybody else except the Union Drawn Steel Company or the American Steel & Wire Company you cannot now remember it; is that correct?

A. That is correct.

Q. Can you give any approximation of the percentage you got from the Union Drawn Steel Company in 1912?

A. No, sir.

Q. Take all of your requirements of steel products, such as you have described as having been bought since you have

been with them, by the Chalmers Company, what percentage of all those requirements were gotten in the year 1913 from the United States Steel Corporation?

A. I cannot answer that.

Q. For 1912?

A. I cannot answer.

Q. For 1911?

A. I cannot answer it accurately.

Q. 1910?

A. I cannot answer it accurately.

Q. Well, can you approximate the percentage that you got in 1910 from the subsidiaries of the United States Steel Corporation?

A. No, sir.

Q. Can you approximate it for either one of those years?

A. No, sir.

Q. In 1913 do you know whether you got over 50 per cent. from the United States Steel Corporation?

A. I do not know.

Q. Do you know whether it was over 60?

A. I do not know.

Q. Or over 70?

A. I do not know.

Q. Or over 80?

A. I do not know.

Q. Or over 90?

A. I do not know.

Q. Do you know whether you got all your requirements from them for 1913?

A. I do.

Q. Well, then, do you know from whom else you got any?

A. In 1913?

Q. Yes.

A. Yes, sir.

Q. Can you give the percentages that you bought from these others, of your total requirements?

A. No, sir.

Q. Could you do it for 1911?

A. No, sir.

Q. Or 1912?
A. No.
Q. Or 1910?
A. No.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. Judge Dickinson asked you without defining what it was, a number of questions about "inferior screw stock"—the percentage of "inferior screw stock" that you used. What did you understand that to mean, the words "inferior screw stock"?

A. Well, a poor grade of screw stock.

Q. Are there different grades used for different parts of automobile construction?

A. Yes.

MR. SEVERANCE: That is all.

RECROSS EXAMINATION

By MR. DICKINSON:

Q. You had spoken, had you not, of Jones & Laughlin, Carpenter, the Standard, and one or two others making a screw stock that was inferior to that made by the American Steel & Wire Company, had you not?

A. Yes, sir.

Q. Did you not understand, when I referred to "inferior," that I referred to that that was not made by the American Steel & Wire Company?

A. Well, not necessarily.

Q. I will put that to you, because that is what I intended. I was referring to that part of your testimony where you spoke of the American making a better screw stock than these other companies I have named, and that on that account you began to buy, and did buy, almost exclusively from the American. You said that, did you not?

A. Yes.

Q. Then the years that I asked you about the percentage of inferior stock, I meant you to understand, and I now mean you to understand that I meant those stocks made by others than the American Steel & Wire Company.

A. Well, the Union Drawn Steel Company probably make as good a screw stock as the American Steel & Wire Company. The others do not, for our purpose. Outside of the Union Drawn, I should say the statement was correct.

Q. Well, then, take the year that I have asked you about, the year 1910; what percentage of your screw stock was bought from the Union Drawn Steel Company and what percentage was bought from these companies, other than the Union Drawn Steel Company and the American Steel & Wire Company?

A. Very little.

Q. I do not want to confuse you. You have answered "very little." Do you mean that for both?

A. I don't think I follow you.

MR. DICKINSON: Read the question.

(The question was repeated by the stenographer as follows:)

"Q. Well, then, take the year that I have asked you about, the year 1910; what percentage of your screw stock was bought from the Union Drawn Steel Company and what percentage was bought from these companies, other than the Union Drawn Steel Company and the American Steel & Wire Company?"

"A. Very little."

THE WITNESS: "Very little" was to the last part of the question, except from the Union Drawn Steel Company.

By MR. DICKINSON:

Q. From the Union Drawn Steel Company what percentage did you buy for that year?

A. 1910?

Q. Yes.

A. I should think about 40 per cent.

Q. From the Union Drawn Steel Company?

A. Yes, sir.

Q. In 1910?

A. I think so; yes, sir.

Q. And very little from all these others?

A. Very little from the others, outside of the American Steel & Wire Company.

Q. Now, then, when you said that in 1910 you used, as I understood you, about 50 per cent. of inferior screw stock, from whom did you get that inferior screw stock?

A. I don't think I said that.

Q. Well, if you did say it, from whom did you get it; did you get any from the American Steel & Wire Company?

MR. SEVERANCE: I will object to that as an incorrect quotation of the witness' testimony.

By MR. DICKINSON:

Q. I think I asked you—if I did not, I will have to do it now: In 1911 what percentage of inferior screw stock did you use for automobiles, and from whom did you get it?

A. Well, very little.

Q. Well, from whom did you get it?

A. I do not recollect of getting any from any of those people; any screw stock from any of those people.

MR SEVERANCE: That is in 1911?

THE WITNESS: That is 1911.

By MR. DICKINSON:

Q. Do you recollect my asking you what precentage of inferior screw stock you had used in 1910, and your answering about 50 per cent.?

A. When I answered that, I supposed you meant the four companies that you asked about, including the Union Drawn Steel Company.

Q. Including them?

A. Yes. I thought that you called the Union Drawn Steel Company inferior stock; that was my inference from what you said?

Q. Did I mention that name to you then?

A. I don't know.

Q. Didn't I just use the expression "inferior"?

A. I think you did. I inferred from your reference to others, other than the American Steel & Wire Company.

Q. And with that in your mind you went on and answered, including them as furnishing you inferior screw stock, did you?

A. No; I inferred that you included them in the inferior list, and I answered it with that inference.

Q. Although I had not mentioned their name, had I?

A. I could not say.

Q. Did you ever hear me mention their name before awhile ago, since I have gone back to that question?

A. You included them in the list of inferior manufacturers of screw stock, or manufacturers of inferior screw stock.

Q. And you understood me to mention them, did you, in my question to you?

A. In inferred from what you said that these concerns you have mentioned were manufacturers of inferior screw stock.

Q. What was it that I said from which you inferred that?

A. I don't know; you have said so many things that I have not been able to keep track of them all.

Q. And you cannot tell me why you inferred that, and you cannot tell me what I said that you drew that inference from?

A. No, sir.

Mr. Dickinson: That is all.

By Mr. Severance:

Q. You have not tried to charge your mind with the specific percentages that you bought from these different manufacturers, have you?

A. No, sir.

Q. Is that all you intended to say by your answers, where you said that you could not tell certain things in percentages?

Mr. Dickinson: I object to this as leading, and I object to it further because it is a general reference to a lot of questions addressed to the witness, without bringing to the atten-

tion of the witness the particular questions that he has been asked, and asking him to put an interpretation upon a lot of questions and answers that are not repeated to him.

MR. SEVERANCE: I will withdraw the question and put it over again.

By MR. SEVERANCE:

Q. When Judge Dickinson put a series of questions to you with reference to the percentage that you purchased from the Steel & Wire Company in a certain year, I think 1911, asking you as to whether you purchased 50, then 60, then 70, then 80, then 90 and then 100 per cent., to each of which you answered you did not know, what did you intend to convey by those answers?

A. That not knowing the exact percentage of the material that I bought from these different concerns, I was not in a position to answer that, and I would like to qualify that statement by saying that our purchases run from $6,000,000 to $8,500,000 a year, exclusive of machinery, fixtures, stationery, advertising and equipment, and it is pretty hard to remember the percentage of any one item in any line that we are buying.

Q. Is that the reason that you gave the answers you did?

A. That is the reason I told him I did not know. I do not know the exact percentage, and rather than answer something that I was not pretty sure of, I had rather say that I did not know.

By MR. DICKINSON:

Q. You were asked by me certain questions in regard to percentages, were you not, and whether you knew, and you said you did not know.

A. Yes.

Q. Did you mean that when you said it, or do you want to say that you didn't mean it?

A. Oh, I meant it.

Q. Do you mean it now?

A. Yes.

Q. Because you do not carry in your mind a particular percentage, is that your reason for saying that you do not

know whether it is above or below the various percentages that I put to you?

A. I answered the questions as nearly as I could when I answered them.

Q. And you understood the questions, did you not?

A. Yes.

By Mr. Severance:

Q. One more question: Among the answers you gave Judge Dickinson was one that you did not know whether you bought 100 per cent. from the American Steel & Wire Company. Now, what did you mean by that?

Mr. Dickinson: I object to that, because I think the question and answer are perfectly plain, and, unless the witness says that he misunderstood the question and wants to explain, it is improper for him to be called upon to give any other answer to my question.

(The question was repeated by the stenographer.)

The Witness: Well, I do know; that was a mistake in the answer, given in that way. A question as to that percentage would be very easily answered.

By Mr. Dickinson:

Q. Well I will put you the same question.

Mr. Severance: Just a minute; you have not got the witness now.

By Mr. Severance:

Q. You say the question would be very easily answered; what do you mean by that?

A. That I could answer yes or no to about 100 per cent., whereas I could not about 90 per cent.; I would not want to answer about 90, but I could answer as to 100.

Q. What is your answer as to 100? You say your former answer is a mistake. What is the fact; do you buy all your requirements from them?

A. No, I do not.

Q. And you desire to correct your answer in that regard?

A. I do.

By Mr. Dickinson:

Q. When you made that answer did you know that you were not answering correctly?

A. No, I did not.

Q. When did you find it out?

A. I did not think of the question until you called my attention to it again. I had that answer formulated in my mind and I overlooked the 100 per cent. The answer applied to everything, 100 per cent.

Q. What percentage less than 100 can you give a definite answer about, as to that question?

A. I should say 90 per cent.

Q. Now, are there any other questions that I asked you where you gave answers that you did not mean to give?

A. Not that I know of.

Mr. Dickinson: That is all.

GEORGE E. DEAN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Severance:

Q. Where do you live?

A. Albion, Michigan.

Q. What is your business?

A. Manufacturer of oven racks, broilers, refrigerator shelves and general wire and iron work.

Q. What is the name of your company?

A. The Union Steel Screen Company.

Q. Of Albion, Michigan?

A. Of Albion, Michigan.

Q. And what is your position with that company?

A. Manager.

Q. What is the size of your company in those lines as compared with other manufacturers?

A. We are supposed to be the largest company in the manufacture of oven racks and broilers.

MR. DICKINSON: What is that?

THE WITNESS: Oven racks—sometimes known as oven slides.

By MR. SEVERANCE:

Q. They are made from what material?

A. Steel and wire.

Q. Where is your market?

A. All over the United States and Canada.

Q. To what class of customers do you sell?

A. Well, we sell to the stove manufacturer and the refrigerator manufacturer and the jobber.

Q. How many of those racks and broilers a day do you make in your factory?

A. We have a capacity of 16,000 a day. We made last year something over 2,000,000, 2,090,000, to be exact, of different kinds.

Q. What class of steel do you purchase for your use in the manufacture of these commodities?

A. We use hard and soft Bessemer wire, hard and soft basic wire, tinned wire—but that is a matter of finish, however—cold rolled steel or grill wire, and also hot rolled bars and bands and angles. That is the main portion that we use.

Q. How long have you been in this business?

A. A little over eight years.

Q. Has the business increased at all during that time?

A. Yes.

Q. How much?

A. Over ten times, probably, since I went with the concern.

Q. What is your practice in securing your requirements of wire of the character you have named?

A. We generally call for quotations from different concerns.

Q. What has been your experience as to whether the quotations were uniform or varying?

A. As a rule they varied.

Q. What if any of your requirements of wire have you bought from the American Steel & Wire Company?

A. I do not think we used 25 per cent.; in fact in recent years we have not used that much.

Q. What is your annual consumption of wire at the present time?

A. About 2,500 tons.

Q. Do you buy from time to time as you need it, or do you make contracts?

A. I do both. There are times that we—when we go into the market and ask for contracts. At other times we buy where we can buy the cheapest.

Q. Is there any class of wire that you buy from the American Steel & Wire Company that the other companies from whom you make purchases do not make?

A. Just state that question again, please.

(The question was repeated by the stenographer.)

THE WITNESS: I would have to answer that "Yes" and "No." There is no product that we buy from the American Steel & Wire Company that we could not buy from some other concern. However, we buy from concerns that do not make wire that we buy from the American Steel & Wire Company.

By MR. SEVERANCE:

Q. What class of wire is that?

A. That is tinned wire.

Q. Tinned wire?

A. Yes.

Q. What companies furnish you the bulk of your wire, outside of this tinned wire?

A. The Youngstown Sheet & Tube Company, and the Pittsburgh Steel Company.

Q. Have you ever bought tinned wire from anyone else than the American Steel & Wire Company?

A. Yes, sir.

Q. From whom?

A. From the Seneca Wire Company and from the Roebling Company.

Q. Do you buy at the present time from those companies or from the American Steel & Wire Company?

A. I buy most all my tinned wire—practically all of my tinned wire from the American Steel & Wire Company.

Q. How large a tonnage is that?

A. I think on that tinned wire we will run three or four cars; not a very large tonnage.

Q. About how much is that?

A. About 100 tons, probably.

Q. About 100 tons altogether?

A. Yes.

Q. Out of about 2,500 tons that you buy?

A. Yes.

Q. How does it happen that you buy most of that from the American Steel & Wire Company?

A. It is a wire that we have had a great deal of trouble with in putting through certain operations that we give this wire, and we have them educated so that they can get that wire as we want it. That is the reason.

Q. Is it a Bessemer or an open hearth wire?

A. It is a basic wire we are using now.

Q. A basic wire?

A. Yes.

Q. How did you educate them?

A. By going to the mill and telling them just what we required, and what the wire would have to stand.

Q. Do you buy sheets?

A. Yes, sir.

Q. What class of sheets do you buy chiefly?

A. Waster stock, mostly.

Q. Do you usually get quotations on that?

A. As a rule; yes, sir.

Q. Is there any uniformity in quotations on waster stock?

A. No, sir; never.

Q. How is that stock produced, do you know?

A. That stock is made from sheets that are cuttings from stock that may have a blemish, and other sheets are made from stock that in cutting out certain sizes for certain work,

they have ends left, and our product is such that we can use very small pieces, and, therefore, we get that waster stock at a much reduced price.

Q. Is that made by a good many different mills?

A. Yes, sir; all mills, I think, that run sheets have wasters.

Q. And the amount they have to sell varies, does it?

A. Yes, sir.

Q. And the character of the product varies, does it?

A. Yes, sir.

Q. There is no uniformity in price on that?

A. No, sir.

Q. How do you buy it? By paying what you think it is worth, or how do you get at the price?

A. I pay what I think it is worth, as a rule.

MR. SEVERANCE: That is all.

CROSS EXAMINATION

By MR. DICKINSON:

Q. What sizes of these wires do you use?

A. We buy wire from half an inch in diameter up to No. 16. Yes, up to No. 20 gauge.

Q. In the year 1913, of all your requirements in the products that you have described, what percentage have you gotten from subsidiaries of the Steel Corporation?

A. It would not run 25 per cent.

Q. For this year?

A. No, sir.

Q. Have you had any written contracts this year?

A. Yes, sir.

Q. With whom?

A. I have had a contract with the American Sheet & Tin Plate Company, the American Steel & Wire Company, the Youngstown Sheet & Tube Company, the Pittsburgh Steel Company——

Q. The which?

A. Pittsburgh Steel; Bourne & Fuller; Bostwick-Brown Company. I think those are about the contracts——

Q. Speaking of contracts, do you mean you have had written contracts for certain——

A. For certain tonnage.

Q. Maximum and minimum?

A. Yes.

Q. Were all these contracts with these various companies for the same kind of things, or different kinds of things?

A. No; they were not all for the same thing. Some of them—the contract with the American Steel & Wire, the Youngstown Sheet & Tube, and the Pittsburgh Steel Company, parts of those contracts were all for the same items; not all of the contract.

Q. Were they made at the same or various times?

A. At various times.

Q. Were these prices delivered?

A. The prices were delivered.

Q. Delivered at your place?

A. Yes, sir.

Q. The sellers to pay the railroad charges?

A. They allowed freight.

Q. How?

A. They allowed freight.

Q. Did the American Steel & Wire Company actually pay the freight?

A. The American Steel & Wire Company paid the freight; the Youngstown Sheet & Tube Company allowed freight; the Pittsburgh Steel Company allowed the freight. I am not sure about the others, whether——

Q. How much of your wire runs from one-quarter to one-half inch?

A. A very small proportion.

Q. What is the base price at which you bought that part of your wire that ran from one-quarter to one-half inch this year?

A. Let me see. I bought part of that at $1.47 delivered; part of it at $1.52 delivered, and some of it at $1.62.

Q. Well, now, were these purchases for which you have

given these various prices, made at the same time or different times during the year?

A. At different times during the year.

Q. What do you call the base size on that?

A. The base size, No. 9 and larger.

Q. The contract you made with the American Steel & Wire Company for 1913—when did you make that?

A. I cannot tell you exactly, but either the latter part of 1912 or early in 1913.

Q. That you made with the Youngstown?

A. That was late in—about September, if I remember right, with Youngstown—1912.

Q. And the Pittsburgh?

A. Along in the fall, some time later. I cannot tell just when.

Q. So you made that with the Youngstown in September, that with the Pittsburgh sometime later in the fall, and that with the American Steel & Wire Company the latter part of 1912, or the early part of 1913, did you?

A. Yes; I think I did; I won't be sure about that, but I think it was either late in the fall or early in the winter.

Q. That is the way you stated it, anyway?

A. Yes; I think so. I think I am right.

Q. You do not know how far apart in time those various contracts were made?

A. No.

Q. Were they all for 1913 delivery?

A. All for either 1912 or 1913.

Q. Well, now, what tonnage was embraced in that contract with the American Steel & Wire Company?

A. I think their last contract was for——

Q. I am speaking of that contract now.

A. 200 tons, I think.

Q. How much was the contract with the Youngstown?

A. I cannot tell you.

Q. How much with Pittsburgh?

A. I do not remember just what they were now in tonnages.

Q. With whom did you negotiate that contract with the American Steel & Wire Company.

A. With their salesman.

Q. Did he come to see you?

A. Yes, sir.

Q. Had you taken up the matter of that particular purchase previously?

A. I had notified them that I would be in the market.

Q. And he came to you, did he?

A. Yes, sir.

Q. You do not remember the month he came?

A. No, sir; in fact he comes about every three or four weeks.

Q. Yes, but I am speaking now of this particular transaction.

A. No, sir.

Q. When he came did he make you a price?

A. Yes, sir.

Q. How long before you closed with him on that?

A. I gave him an order that day.

Q. How long before that since you had had a price with the American Steel & Wire Company?

A. I could not say; maybe ten days.

Q. Now, on that day did you have any price from the Youngstown?

A. Yes.

Q. The day that you made this purchase?

A. Yes, sir.

Q. And did you have one from the Pittsburgh?

A. Yes.

Q. Did you have one from anybody else?

A. I do not think so.

Q. And you closed with the American Steel & Wire Company at—I have forgotten the price, what did you say?

A. I did not say.

MR. SEVERANCE: He did not say which was which.

By MR. DICKINSON:

Q. Well, do you know?

A. I think that particular contract was $1.62.

Q. I have got $1.62 down here, but I did not know what it referred to.

A. I think that was the one.

Q. I find I have got $1.62, but I have not got it connected with anything especial; do you now know what bids were made by those other companies on that particular tonnage?

A. I know at that time I paid the American Steel & Wire Company $1 a ton more than I could have bought it for from other people at the same time.

Q. And they offered you that on that particular tonnage, did they?

A. Yes, sir.

Q. And you paid the American Steel & Wire Company a higher price?

A. Yes, sir.

Q. When did you next buy previously to that from the American Steel & Wire Company?

A. Next.

Q. Before that?

A. I cannot tell you just when that was.

Q. That was in 1912?

A. Yes, sir.

Q. Do you know what the tonnage was?

A. No, I cannot tell you.

Q. Do you know who bid on that particular purchase?

A. Well, I generally called on these three concerns when I was in the market for any amount.

Q. You say generally; I am asking you about that particular purchase, if you know?

A. That particular one I cannot say.

Q. You do not know the dates on that particular one?

A. I simply know that I paid them the highest price that I paid anybody.

Q. On that particular bid?

A. Yes.

Q. I am not speaking of the one in the latter part of 1912, but the one previous to that.

A. I think that will stand good on that one as well. I

won't be dead sure about it, but I think they were high all that year.

Q. What time of the year was it?

A. Probably along in June.

Q. Of 1912?

A. Probably.

Q. That is as near as you can locate it?

A. Yes, sir.

Q. And you cannot give the price?

A. No, sir.

Q. Nor the bids of the others?

A. No, sir.

Q. When did you make your next purchase before that from the American Steel & Wire Company?

A. I cannot tell you.

Q. Did you make any more in 1912 than that?

A. I do not think that I did. I think I bought twice in 1912, but I won't be certain about it.

Q. From the American Steel & Wire Company?

A. Yes, sir.

Q. But one of those may have been in the early part of 1913, instead of the latter part of 1912?

A. It might have been early in 1913.

Q. As you have already described?

A. Yes; it might have been.

Q. Now, in 1911 how many purchases did you make from the American Steel & Wire Company?

A. Two, I think.

Q. Do you know the tonnages?

A. No; I canot tell the tonnages.

Q. Do you know the prices you paid?

A. No; I cannot tell the prices.

Q. Do you know at what time of the year you made the contract?

A. I know this, that I generally contract some time in the fall, and very often fill out a smaller contract in the spring or early summer.

Q. You are speaking in a general way now?

A. Yes; in a general way.

Q. Now, I am asking your recollection as to a particular event.

A. No, I cannot give it.

Q. Cannot give the prices or quotations, can you?

A. No, sir; not that they quoted me.

Q. Can you give the prices the others quoted you?

A. I can one price, very distinctly.

Q. When was that price quoted to you and who made it?

A. Sometime in 1911, made by the Pittsburgh Steel Company.

Q. What time in 1911?

A. If I remember right it was along in the spring.

Q. What month?

A. I cannot tell you.

Q. In what month did you make the contract with the American Steel & Wire Company?

A. I cannot tell you.

Q. You do not know how near that bid was to that contract, do you?

A. Not exactly; no, sir.

Q. Well, now, in 1910, how many purchases did you make from the American Steel & Wire Company?

A. One or two.

Q. Do you know the tonnage?

A. I think in 1910 I probably bought 250 tons.

Q. In one or two transactions?

A. Probably two.

Q. Do you know how they were apportioned between those two?

A. No, I could not tell you.

Q. Do you know the times of the year that you made those respective contracts?

A. Except in a general way, in the fall and spring.

Q. Can you remember the prices that you paid on either one?

A. In 1910?

Q. Yes.

A. No, I cannot.

Q. Can you remember what quotations you got from others on this particular purchase?

A. No, sir.

Q. Or what the quotations were?

A. No, sir.

MR. DICKINSON: That is all.

JAMES H. CHANNON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you live?

A. Chicago, Illinois.

Q. What is your business?

A. I am vice-president of H. Channon Company.

Q. What is the business of H. Channon Company?

A. General mill and factory supplies and railroad supplies.

Q. How old a concern is that; how long has your company been in business?

A. Since about 1870 or 1871.

Q. And in what classes of products do you deal?

A. We handle a general line of supplies such as wire rope, cordage, cotton duck, pulleys, shafting, chain, belting, twist drill, machinists' supplies of all kinds, and almost anything that goes into a factory for a general supply line.

Q. You have a large book or catalogue, haven't you, filled with the various things that you deal in?

A. Our catalogue contains about 856 or 900 pages, our present catalogue.

Q. Describing the things that you sell?

A. Describing the articles that we carry and handle.

Q. Where is your market?

A. Well, we sell goods from Maine to California, all over the United States, and we export considerable.

Q. Do you handle steel goods among other things?

A. We do.

Q. What classes?

A. Wire rope, wire nails, bolts, spike, railroad spike, nuts, bolts, bar iron, shafting, music wire, annealed wire, reinforced concrete mesh, poultry netting.

Q. Do you deal in horseshoes?

A. Horseshoes, beams, channel iron, plates, sheet iron.

MR. DICKINSON: Is that steel?

THE WITNESS: Yes, sheet steel.

By MR. SEVERANCE:

Q. You mentioned springs, didn't you?

A. I did not. We do handle springs.

Q. Electrical wires?

A. Yes, we handle some electrical wires.

Q. Staples?

A. Staples, yes, and tacks and rivets, and we generally characterize the line by saying we handle everything from a tooth pick to an anchor, it is so general.

Q. Mr. Channon, referring to the period from 1901 to the present time, have you made purchases of any of your requirements in these various lines from any of the subsidiaries of the United States Steel Corporation?

A. You mean since——

Q. Since the Corporation was formed, I say, have you made purchases in any of these lines that you have mentioned from any of its subsidiaries?

A. Yes, sir; we have.

Q. From which subsidiaries have you bought?

A. From the American Steel & Wire Company, the Illinois Steel Company, the American Sheet & Tin Plate Company, and we have bought concrete reinforcement from Carnegie, I think, at one time.

Q. Upon what basis is it your custom to make your purchases? That is, do you get quotations or not?

A. We always get quotations?

Q. And how general are the inquiries for quotations, that you make, when you are in the market?

A. Unless we have a contract for a specific article we get quotations from two to three firms that handle the article we want to purchase.

Q. That is the regular rule?

A. That is a regular rule; that is the custom of our house.

Q. Having reference to these steel articles that you have mentioned, how have the quotations come to you from the different companies quoting—uniform or varying?

A. They vary.

Q. As a rule, do you or do you not place your business on a competitive basis, considering price and service?

A. Taking price and service into consideration, we place it on a competitive basis at all times.

Q. Can you give me the names of the companies from whom you bought music wire?

A. George D. Nash, and the Herman Boker Company, and the American Steel & Wire Company.

Q. Who are Herman Boker & Company?

A. A firm here in New York; I believe they import wire.

Q. Who is George D. Nash?

A. Nash is the representative in Chicago, I think, for some mills that manufacture wire in Pittsburgh or in the east some place.

Q. Did you mention the American Steel & Wire Company?

A. Yes, I did.

Q. From whom have you bought horseshoes?

A. The American Steel & Wire Company, and principally from E. D. Kimball.

Q. You mean principally from the American Steel & Wire Company or from Kimball?

A. Principally from Kimball.

Q. Who is Kimball?

A. A jobber on Market street, Chicago.

Q. Whose horseshoes does he handle?

A. He handles horseshoes made by the American Steel & Wire Company and the Phoenix Horse Shoe Company of

Joliet. I think they are in Joliet, and have some place in New York.

Q. From whom have you bought flat wire, if from any one —or don't you deal in it?

A. That wire business would be so small that we would buy it from a small dealer; it is not enough to make a note of.

Q. From whom do you buy tacks?

A. The Grand Crossing Tack Company, principally.

Q. Anyone else?

A. No, except we might buy some through the jobbers in Chicago.

Q. Springs?

A. Springs, W. D. Gibson.

Q. Who is W. D. Gibson?

A. And the Tuttle Spring Company. Gibson is a manufacturer in Chicago, situated on the North Side of Chicago.

Q. And the American Steel & Wire Company?

A. I don't think we ever bought any from the American Steel & Wire Company. We get their prices on springs, but we have been able to beat the quotations.

Q. From whom do you buy cold rolled shafting?

A. Cold rolled shafting, from Bliss & Laughlin, of Chicago.

Q. And screw stock?

A. Yes; and the Union Drawn Steel Company, and some from the American Steel & Wire Company.

Q. From whom do you buy barbed wire?

A. We buy barbed wire principally from the American Steel & Wire Company, and the Clinton Wire Company, I think it is; and I think some from Barbee, occasionally.

Q. Do you ever buy any barbed wire from the Grand Crossing people?

A. Yes; we might have bought a roll or two, but our barbed wire sales are very small.

Q. You spoke of mesh.

A. Wire mesh; we have bought that from the Clinton Wire Cloth Company, but of late we have been buying it from the American Steel & Wire Company.

Q. And wire rope?

A. Wire rope we buy almost exclusively from the American Steel & Wire Company.

Q. Do you buy from others?

A. Only in case of shortage, or whenever some other rope is specified.

Q. Is that a specialty of yours?

A. It is.

Q. How does it happen that you buy so largely from the American Steel & Wire Company?

A. Well, we have a preference for their rope. We believe their rope is the best on the market, and the price has been satisfactory and we have generally given them our business.

Q. You push that rope, do you?

A. We push that rope, yes. It is listed in our catalogue, and we advertise it.

Q. What, in general, are the classes of customers you have for wire rope?

A. Well, we sell largely to the contracting trade, the dredging contractors and building contractors, and the large manufacturers; and also a great many of the large buildings in Chicago we furnish rope to.

Q. From whom have you bought wire?

A. Principally the American Steel & Wire Company.

Q. Anyone else?

A. Occasionally we buy a roll or two from Roebling.

Q. Is there anything in the location of the American Steel & Wire Company that has anything to do with your buying from them?

MR. DICKINSON: Objected to as leading.

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. Where are the American Steel & Wire Company located with reference to your place of business?

A. It is across the river from our store.

Q. Is there any other dealer in wire as near to you?

A. No.

Q. Where do you buy your poultry netting?

A. From the Wright Wire Company; they have been getting considerable of our business in that line.

Q. Do you buy any from the American Steel & Wire Company?

A. Yes; I think we have this last year or two bought some.

Q. Whom do you buy electrical wires from?

A. The Central Electric, the Illinois Electric Company, some from the American Steel & Wire Company; our business in that line is very small, however.

Q. From whom do you buy spikes?

A. Jones & Laughlin; Scully Steel & Iron Company; A. M. Castle; J. T. Ryerson; the American Steel & Wire Company; Crerar, Adams; and some from the Biddle Purchasing Agency.

Q. Do you buy any spikes from the Republic?

A. The Republic Iron & Steel Company; yes.

Q. Whom do you buy nails from?

A. Wire nails, principally from the American Steel & Wire Company.

Q. Who else?

A. We have bought from the Illinois Nail Company; we have bought some through Biddle, and the Wilson Steel Products Company, I think that is what they call it now.

Q. What is Biddle? You have spoken of them a number of times.

A. They are purchasing agents and syndicate buyers, in New York, and they have an office in Pittsburgh.

Q. What commodities do they handle?

A. They buy any commodity from anybody, irrespective; they get the lowest price they can.

Q. They are syndicate buyers?

A. Syndicate buyers for the large jobbers throughout the country; of course most of their clientage is in the west.

Q. From whom do you buy staples?

A. Staples we buy principally from a jobber in Chicago; we do not keep a large stock of staples; we get them from jobbers.

Q. Whom do you buy rivets from?

A. The Illinois Steel Company, Scully, Ryerson, Jones & Laughlin, and the Grand Crossing.

Q. Do you buy any rivets from the Inland?

A. We have.

Q. From whom do you buy sheets and plates and angles? You spoke of buying some of them.

A. You mean shovel plates?

Q. You spoke of buying sheets, plates and angles.

A. Sheets, steel or iron, such as we buy for our consumption or our trade in Chicago, we buy from Jones & Laughlin principally, or Ryerson, but we buy a great deal of shovel plate for our shovel company.

Q. Whom do you buy that from?

A. We have bought that from the American Sheet & Tin Plate Company, and the Indiana Rolling Mill, the Universal Rolling Mill, and De Forrest. We have used some of the La Belle sheet steel.

Q. You started to say that you were interested in a shovel company. What is that shovel company?

A. The Jackson Shovel & Tool Company, of Montpelier, Indiana.

Q. Do you make the purchases for that company?

A. The steel shovel plates and handles we buy from the Chicago office; that is a large commodity that they use.

Q. And this shovel plate that you buy for them is bought from the different concerns you have just mentioned?

A. Yes.

Q. That is the source of the supply of that commodity?

A. Yes.

Mr. Dickinson: What is the name of that company?

The Witness: Jackson Shovel & Tool Company, Montpelier, Indiana.

By Mr. Severance:

Q. What does that company manufacture?

A. Shovels.

Q. Are you interested in any other company in Chicago?

A. I am president of the Union Elevator and Machine Company.

Q. What does that company manufacture?

A. Freight and passenger elevators, derricks, trolleys, stage hardware, and a general line of contractors' supplies.

Q. Do you know what their annual requirements are in steel?

A. No; it is pretty hard to say.

Q. From whom does that company get its supply of steel?

A. From the Illinois Steel Company, Jones & Laughlin, Scully, Ryerson, A. M. Castle.

Q. Do you buy anything from the Inland Company for that company?

A. No, I do not think they have ever bought anything from the Inland. They might have bought a little, but not to amount to anything.

Q. How are those purchases made? Do you get bids?

A. We get bids.

Q. Are those bids varying or uniform?

A. They vary.

Q. Is that business placed on a competitive basis?

A. Absolutely. That is a manufacturing plant and it is all done upon a competitive basis.

Q. It is a rather large concern, is it, Mr. Channon?

A. No, it does a business of about $200,000 a year; not quite $200,000.

Q. Now, I will ask you a general question. In making your purchases for the Channon Company, and the Shovel Company, and the manufacturing company, I will ask you whether when you receive quotations from different manufacturers or mills or agents of such mills on these various products, whether, as a rule, they differ from each other, or whether——.

A. (Interposing) There is always a variation in prices.

MR. SEVERANCE: That is all.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Channon, you say there is always a variation?

A. Yes.

Q. If you get five bids on any particular purchase at any particular time what would you call a variation in that?

A. On steel, $1 a ton is——

Q. (Interposing) Oh, no. I mean in their relation to each other. I am not speaking of figures now. You say there is always a variation. What do you mean by that?

A. A difference in price; variation in price.

Q. Do you carry in your mind now any particular transaction that you are referring to when you speak of that variation?

A. Why, it is pretty hard for me just to pick out one particular incident.

Q. Well, you need not be so partial about picking out one. If you have a dozen, you can give us a dozen, if you will just name the circumstances and the time and place.

A. You see, our business is such a large volume that it is pretty hard to select any one incident.

Q. Oh, I appreciate that.

A. I could not say, but, in a general way, the general character of our business, when we get quotations they are all subjected to close scrutiny, and then we make our decision after we get our prices, and it would be pretty hard for me to state any particular date when we bought nails, or what date we bought wire. I know we did buy it, but I could not tell you whether we bought it in May or the first day of June.

Q. Over what period of time are you speaking of the various purchases for these various companies, when you say there has always been variation?

A. I say we have been in business since 1870 or 1871——

Q. Well, from 1901.

A. From 1901, I have never known a time but what we have had variation in prices in steel goods.

Q. You never knew a time when the prices were the same?

A. I never knew a time when the prices were the same. I have never found prices the same on any one commodity.

Q. You have know times when more than one quotation was the same, have you not?

A. Yes, sir.

Q. And you have know times when several were the same, have you not?

A. Yes.

Q. You could not give those times now?

A. I could not give the dates, no.

Q. Or the frequency with which they occurred?

A. I might say that I have never had bids, or never taken bids, but what I found a variation, on any large commodity.

Q. You have answered something I have not asked you. Will you please address yourself to my question?

A. I am trying to, just as near as I can.

MR. DICKINSON: Will you read the question?

THE WITNESS: Yes, read the question.

(The question was repeated by the stenographer.)

MR. DICKINSON: Now, will you answer that?

THE WITNESS: I cannot give any specific dates.

By MR. DICKINSON:

Q. You do not carry in your mind now, do you, on any quotations the number that were alike, or how many varied, or what the variation was, during the period, say, from 1901 to 1910?

A. I do not.

Q. And how these prices were related to each other, just what the variation was, if there was a variation?

A. I could not tell you exactly what they were. It would be impossible. No living man could do it, in our business.

Q. That is what I thought; and no living man could tell now how many were alike and how many differed, could he?

A. No, he could not.

Q. And he could not tell the relation throughout that period of prices to each other?

A. Not without referring to written statements or books or some reference; it would be impossible.

Q. You have not referred to anything of that sort, have you?

A. I have. I have gone through all of our books and

all our purchases for the last six years, in the last thirty days.

Q. Can you give for the year 1910 the purchases that you made and who the bidders were, and how they varied, and how many were alike?

A. On what?

Q. Well, on anything now that you say you remember.

A. No, I cannot. I did not charge myself with the particular prices. I did not know that you wanted that.

Q. Well, you probably did not know that you would see me anyway, did you?

A. I thought I would see you, Judge. I happened to know you were going to be here.

Q. Take back of 1910. Do you carry any incident of that sort in relation to prices, in your mind?

A. No, I do not.

Q. You are connected with three concerns, one in Montpelier——

A. (Interposing) Montpelier, Indiana.

Q. Montpelier, Indiana?

A. Yes, sir, and two in Chicago.

Q. Two in Chicago?

A. Yes.

Q. You are vice-president of one of those in Chicago, are you?

A. Yes.

Q. What relation do you hold to the others?

A. I am president of both of the other companies.

Q. You are president of both the other companies?

A. Yes.

Q. Do they have their offices together, or do you go sometimes to one and sometimes to the other?

A. In Montpelier, the Jackson Shovel & Tool Company have their offices in Montpelier, but the books are kept in Chicago, in our office. The Union Elevator Company is a distinct company, which has its own operating plant and office on Ontario Street in Chicago; 215 Ontario Street, Chicago.

Q. Do you spend part of your time there?

A. I go there, as a rule, in the morning.

Q. You say that is a pretty large concern?

A. No; I said they do a business of $200,000 a year, or less.

Q. Do you devote some of your time to that company?

A. I do.

Q. Has that company a purchasing agent?

A. The business is operated directly from our office. Mr. Razall is secretary and manager.

Q. How long has he been with that company?

A. He has been with the Channon Company and the Elevator Company for twenty-three years. I think he went with the Elevator Company in 1894 or 1895, the year after the World's Fair.

Q. And he has been with you in one way or another for over twenty years?

A. Yes; twenty-three years.

Q. I infer that you repose considerable confidence in him?

A. We do.

Q. Does he do any purchasing?

A. He does purchasing; yes, sir.

Q. What company has he made purchases for?

A. The Union Elevator and Machine Company.

Q. And has he bought steel products for that company?

A. Yes, sir; he has.

Q. Some of those purchases were under contract and some of them from time to time as your needs require?

A. We never contract for material in that plant; we buy as we need it.

Q. And has he sometimes closed those transactions himself?

A. Not of any consequence without first consulting me.

Q. Can you tell what percentage of your purchases for any one year have been closed by him, and what percentages have you taken part in the transaction?

A. You see, I go there in the morning and I look over the business, and he tells me what he is going to do, and I approve of almost everything he does, and any small requirements that he would want during the day he would purchase.

The percentage that he would buy, I would say, would not be ten per cent. of the requirements.

Q. If he tells you he is going to buy from such and such a concern and at such and such a price you generally approve it?

A. I approve it. He shows me the bids on his desk.

Q. Do you always look over those bids?

A. I do.

Q. Doesn't he ever state to you what they are?

A. He shows them to me; they are on the desk.

Q. And you always examine the bids themselves?

A. Yes, sir; I examine the bids.

Q. You do not take his statement for it?

A. No, sir. For instance, he would telephone to me and say he had a price of so and so, should he buy it, and I would say yes.

Q. You do not know how often that has been done?

A. I should say he might do that two or three times a month.

Q. Do you know the quantities that have been bought in that way?

A. Nothing very large was bought in that way.

Q. Do you know what percentage of your requirements have been bought in that way?

A. No, sir.

Q. Do you know what quotations he got from others when he telephoned you the price?

A. He never telephones unless he has a quotation. He has instructions to get quotations from not less than three people in the line.

Q. But when he telephones you the price——

A. He gives me the price that he gets from other people.

Q. He gives you the price from other people?

A. Yes; very often we would be glad to pay some companies more than others.

Q. How is that?

A. Sometimes we would be glad to favor some people that bid, and pay them a little more.

Q. Sometimes you do favor some people, do you?

A. Yes, sir; we do.

Q. What percentage of your business in wire nails in the year 1913 did you buy from the American Steel & Wire Company?

A. 1913?

Q. Yes.

A. Wire nails; we bought about 98 per cent., I should say.

Q. And wire rope?

A. Wire rope, as near 100 per cent. as possible. It might be that we bought a length of rope, if somebody would order "Hercules rope," we would order it, but generally our entire stock is from the American Steel & Wire Company.

Q. Cold rolled shafting, in 1913; how much did you buy from the American Steel & Wire Company?

A. Not any.

Q. Did you buy any cold rolled shafting in 1913?

A. Not from the American Steel & Wire Company.

Q. Any other?

A. Yes.

Q. What tonnage?

A. We contract for 25 to 50 tons at a time, and our contract this year has been placed with Bliss & Laughlin.

Q. How many contracts have you had with them this year?

A. I think we are working on the second contract this year; I would not be sure.

Q. What tonnage do you use a year?

A. We use about 50 tons a year, I should think.

Q. That is a very small part of your business?

A. It is a very small part of our business. We contract for 50 tons, and sometimes we use it and sometimes we order a second 50 tons, but 50 tons as a rule is what we ask for.

Q. Well, now, what percentage of your poultry netting and wire in 1913 have you bought from the American Steel & Wire Company?

A. Our wire we have bought exclusively from the American Steel & Wire Company this year.

Q. And poultry netting; what percentage?

A. As I stated, our poutry netting is a very small item

with us, and that is bought by a pick-up man, and I think we bought pretty nearly all from the American Steel & Wire Company.

Q. You say by a pick-up man?

A. By what we call our city pick-up man. We do a jobbing business, and when we are short of anything, we send to the pick-up man, and he picks up from certain manufacturers or jobbers, but his instructions are to give the business to the American Steel & Wire Company, and I presume that all that has come from there, because I have seen their wire come there, I have seen our wagons coming there with the wire. Our wagons go across the bridge and load at the American Steel & Wire Company's warehouse and bring it in.

Q. In the year 1912 what proportion of the kind of things that you have bought which are made by the American Steel & Wire Company, of your requirements, what proportion have you bought from the American Steel & Wire Company?

A. I can answer that better by covering a perior of six years. I made an estimate, that we purchased 70 per cent. of our purchases from the American Steel & Wire Company, of products that they handle.

Q. Now, you have bought from other subsidiaries of the Steel Corporation, have you not, other things?

A. Yes, sir; we have.

Q. Now, taking all of your purchases of the character that you have bought from the American Steel & Wire Company and from the other subsidiaries of the United States Steel Corporation, what percentage of that character have you bought from subsidiaries of the Steel Corporation?

A. In figuring for the period of six years, of the steel plate, we bought for the shovel plant, we bought 60 per cent. from the Steel Company of steel plate. I bought 60 per cent. of the plate, and the purchases made by the Union Elevator & Machine Company, they purchased about 14 per cent. of the material from the Illinois Steel Company during the period of six years.

The Channon Company, as I stated before, purchased 70 per cent. from the American Steel & Wire Company.

Q. I am a little bit confused about that answer, so I had

better ask you again. Take your Channon Company. Of all its purchases in the year 1912 of the kind of things that are produced by the United States Steel Corporation, what percentage of the whole has been bought from the subsidiaries of the United States Steel Corporation?

MR. SEVERANCE: You ask that for 1912 only?

MR. DICKINSON: I am taking it now for 1912.

THE WITNESS: I have taken my figures for six years; I can do it better for six years; I cannot remember. There are a great many figures to remember and it would be impossible.

By MR. DICKINSON:

Q. Well, take six years.

A. Six years, shovel plate, 60 per cent.

MR. SEVERANCE: What are you talking about?

THE WITNESS: The Channon Company; we purchased the shovel plate for the shovel company and we billed it to the shovel company. Sixty per cent. of the shovel plate was purchased from the Steel Corporation's subsidiaries, and the Channon Company purchased 70 per cent. of its requirements from the American Steel & Wire Company.

MR. SEVERANCE: In this line?

THE WITNESS: In this line.

MR. SEVERANCE: Wire products?

THE WITNESS: Wire products.

MR. DICKINSON: Does that fully answer the question?

THE WITNESS: And I think that the Illinois Steel would run about two or three per cent. in those years.

By MR. DICKINSON:

Q. My question did not limit it to wire products; did you understand that?

MR. SEVERANCE: He is not limiting it.

THE WITNESS: No, I have not limited it.

By MR. DICKINSON:

Q. You said wire products?

A. Wire rope; what I mean by that, I do not want to evade anything; I want to be as fair as I can——

Q. I do not think you are trying to evade anything; but I do not think we understand each other. My question is, of all the kind of products that are made by the subsidiaries of the United States Steel Corporation, what percentage of all that you bought of those kinds for the Channon Company in 1912 were bought from the subsidiaries of the United States Steel Corporation?

A. I cannot limit it to 1912; I will limit it to the period covering six years.

Q. Did you understand the balance of the question?

A. I think I answered that. I say that the shovel plate would be 60 per cent., and the other articles, such as nails and wire rope, reinforced concrete mesh, drill rods, Bessemer rod, music wire, and material of that kind, would run to 70 per cent., and the heavy steel, structural, such as beams, and that, would be about 2 per cent. for the Illinois Steel Company.

Q. Where do you get the other per cent. of that?

A. The other 98 per cent., from Jones & Laughlin, A. M. Scully, J. T. Ryerson, Grand Crossing Tack Company, Nash, Boker, Bliss & Laughlin and the Union Drawn Steel Company.

Q. Now, you have given the average for six years, have you not?

A. I have not mentioned plates. We bought plates from the Indiana Rolling Mill Company and the Universal Rolling Mill Company.

Q. Now, your answer is an average for six years?

A. An average for six years.

Q. Can you not give me any nearer estimate of what it was for the year 1913, or 1912?

A. For 1913, I happen to have that in mind.

Q. Well, what is it?

A. You take the plate, we have bought about 75 per cent. of our product from the Steel Corporation and its constituent companies.

Q. That covers all sorts of things?

A. Yes; that just happened this year, that we bought more steel plate from the Steel Corporation than any other year, maybe.

Q. This year?

A. Yes; we confined our purchases to them.

Q. That is for six years, and that would carry it back to 1907?

A. Yes.

Q. Now, in 1907, what percentage of all your purchases in steel products, of all the kinds we have talked about, did you get from the subsidiaries of the United States Steel Corporation?

A. The percentage runs pretty near the same in the Channon Company each year.

Q. How far back?

A. Six years; it runs prety nearly the same, but the Elevator Company's purchases from the Illinois Steel Company were very small. In fact they are a trifle less—Oh, I would say less than three per cent. One year we only bought $50 worth from the Steel Corporation, the Illinois Steel Company; and the Shovel Company for the years 1908, 1909 and 1910 bought principally from the Indiana Steel Company.

Q. Now, you have said a great deal, but I do not think that any of it is responsive to the question asked you.

MR. SEVERANCE: I think it is responsive to the question.

MR. DICKINSON: That necessitates my asking it again for the year 1907.

MR. SEVERANCE: That was prior to six years ago.

MR. COLTON: He intended it to be.

MR. DICKINSON: That is exactly what I wanted.

THE WITNESS: I did not get it that way.

MR. DICKINSON: I drew his attention to the fact that his previous answers had been for an average of six years, and I went back of that six years and asked him for 1907. Now, I would like to get an answer to that question.

THE WITNESS: Read that question again for 1907 and I will answer it.

(The question was repeated by the stenographer, as follows:)

"Q. Now, in 1907 what percentage of all your purchases in steel products of all the kinds we have talked about, did

you get from the subsidiaries of the United States Steel Corporation?"

THE WITNESS: I could not answer that, because I have not had an opportunity to look at my books. Our books prior to that time have been destroyed.

By MR. DICKINSON:

Q. Now, take the last six years and take the total tonnage of wire and steel products bought by each of your three companies, and state what percentage of the whole by each company was bought from subsidiaries of the United States Steel Corporation?

A. I have answered that.

MR. SEVERANCE: Read the question. Read it over; he wants it read.

MR. DICKINSON: No, I do not think you have answered it.

MR. SEVERANCE: I think he did, but read it over again.

THE WITNESS: I have; I answered it very carefully.

(The question was repeated by the stenographer.)

THE WITNESS: I will not take it in tonnage, I will take it in dollars and cents.

By MR. DICKINSON:

Q. Well, answer the question.

A. I will answer dollars and cents. We never figure tons. We take dollars and cents at the end of the year; it is practically the same thing.

Q. You can answer, of course, that way, but I may ask you further.

A. Shovel plate, 60 per cent.

MR. SEVERANCE: What company are you talking about?

THE WITNESS: The Channon Company purchased that for the Jackson Shovel & Tool Company; that is the shovel plate that we purchased and shipped to them.

By MR. DICKINSON:

Q. That is all they buy of steel products?

A. That is all they buy, that shovel plate, 60 per cent. has been purchased from the Steel Corporation. The H. Channon Company's business outside of shovel plate, of products such

as are handled by the American Steel & Wire Company, we purchased 70 per cent., and about 2 per cent. from the Illinois Steel Company. The Union Elevator & Machine Company, which purchased separate and distinct from the Channon Company purchased about 14 per cent. from the Illinois Steel Company in the last six years.

Q. Has it bought from any other subsidiary of the United States Steel Corporation?

A. No; that is the only subsidiary of the Corporation that they have purchased from.

Q. What have its purchases averaged per year, that last company, the Elevator Company?

A. In six years they purchased $8,000 from—$8,000 from the Illinois Steel. There have been about $61,000 that they purchased in the market—about $61,000 or $62,000 as near as I can remember.

Q. Is that per year?

A. No; that was six years.

Q. That is for the whole time?

A. Yes; that is what that company purchased.

Q. From what you have given there, does it appear what the total percentage—what the percentage of the total purchases of all three of these companies from the Steel Corporation bears to the total purchases of all three of these companies? Did you catch that question?

A. I think I understand what you want, but I have not——

Mr. Severance: Do you mean the total purchases in all lines, or only steel products?

Mr. Dickinson: Yes, steel products.

The Witness: From the Steel Company by all three companies?

By Mr. Dickinson:

Q. Of all three.

A. I have not compiled that. I have the figures with me. If you wish, I could work it out for you.

Q. Can you give about what it is?

A. I stated it was 60, 14, 70 and 2.

Q. Well, but that does not indicate, does it, the aggregate?

A. Yes, that is the aggregate.

Q. But that does not show what percentage the aggregate of the purchases for all three of these companies from the Steel Corporation is, of the aggregate purchases of all three of these companies from all sources? Does it show that?

A. I should think so. I do not know why it does not. We purchased 14 per cent.——

Q. Can you not just state them in round numbers, instead of dividing it up?

A. I have stated it there. I took from the books of each individual company their purchases, and I figured the percentage of the purchases for each company. Now, in order to do what you want, you must give me the time to add up the purchases of each company and combine them in one.

Q. Well, I will give you that time.

A. I can do that in just a minute. For safe figuring, I would say 66 2-3 per cent.; that is about what it figures—rough figures.

Q. That is to say, that of all the iron and steel products bought by all these companies, you bought 66 2-3 per cent. from the subsidiaries of the United States Steel Corporation?

A. Yes.

MR. DICKINSON: That is all.

MR. SEVERANCE: That is all. Mr. Glessner.

ARTHUR W. GLESSNER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Glessner, where do you live?

A. Chicago, Illinois.

Q. And what is your business?

A. Manufacturing of heating specialities.

Q. Will you state the name of your company?

A. The Excelsior Steel Furnace Company.

Q. And what class of steel products or materials do you purchase for use in your business, if any?

A. Sheet steel and tin plate.

Q. And about what are your annual requirements in sheets?

A. Around—well, from 2,000 to 3,000 tons annually; an average of about 2,500.

Q. Do you place your orders after getting quotations from various makers of sheets?

A. We do.

Q. From how many different concerns do you solicit quotations or get quotations?

A. Usually from four to six.

Q. Do the agents of the various companies call on you, or how do you get into communication with them?

A. The sales managers and branch managers usually call upon me at the time when they know that I usually contract.

Q. When you receive quotations, are they uniform or varying?

A. Usually varying.

Q. Do you buy any wasters?

A. We do, in tin plates.

Q. In tin plates?

A. Yes.

Q. But that does not apply to sheets?

A. No.

Q. Do you pursue the same policy when you are in the market for tin plate that you do for sheets?

A. Yes, we do.

Q. That is, of securing quotations?

A. We do.

Q. And do you find those varying or uniform?

A. Usually varying.

Q. Do you make stove pipe?

A. We do.

Q. In large quantities?

A. In very large quantities.

Q. And with whom are you in competition in the sale of stove pipe?

A. With the Reeves Manufacturing Company, of Canal Dover; the National Enameling & Stamping Company, of Milwaukee, St. Louis and other cities; the Parkersburg Iron & Steel Company, of Parkersburg, West Virginia; the Canonsburg Stamping Company, of Canonsburg, Pennsylvania; the Follansbee Brothers Company, of Pittsburgh; all of those being manufacturers of sheets themselves.

Q. They make their own sheets?

A. They make their own sheets. Do you wish me to give a list of a dozen or more others who are manufacturing?

Q. You might.

MR. DICKINSON: I object to it as irrelevant.

By MR. SEVERANCE:

Q. Leave it that way, then. Are there about a dozen more?

A. Yes; easy.

Q. That are in competition with you?

A. Yes, sir.

Q. That are buying their sheets from different sources?

A. Yes; those people manufacture their own.

Q. But the wasters that you buy; what do you use them for?

A. We use that in connection with the manufacture of double wall pipe; also for making round pipe.

MR. DICKINSON: I object to that as irrelevant.

By MR. SEVERANCE:

Q. What are your annual requirements in tin plate?

A. Around 15,000 base boxes.

Q. How much in wasters?

A. That includes primes and wasters, and the wasters on an average would run probably 15 per cent. of the primes, varying with the different mills.

MR. DICKINSON: 15,000 base boxes, you say?

THE WITNESS: Yes.

MR. DICKINSON: Including wasters?

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. About 15 per cent. are wasters?

A. Yes.

Q. Is there a great deal of fluctuation or variation in the price of wasters?

A. There is.

Q. Are wasters sold more or less along with the prime plate?

A. To a certain class of trade; in some cases buyers of primes will not take the wasters in a particular business which will not permit them to use the wasters. In our case we always take the wasters.

Q. Do you in addition to wasters that would naturally be made in making the prime plates, buy additional wasters?

A. We buy wasters from stock list and overruns frequently; wasters are just as good for our purpose as the primes.

Q. How does your stock of stove pipe compare with that of your competitors?

A. We have the reputation of carrying the largest stock in the world of stove pipe.

Q. Where do you have warehouses, if at all?

A. We have warehouses in Chicago; in Des Moines, Iowa; in Kansas City, Missouri; in St. Paul, Minnesota; Canton, Ohio; and Pittsburgh, Pennsylvania, carrying stove pipe. We have other warehouses in other cities carrying other classes of sheet products, like Memphis and Cincinnati and Denver and St. Louis.

Q. Do you sell to jobbers or do you sell to retailers or do you sell to consumers?

A. We sell about 75 per cent., I estimate, to the jobber, and 25 per cent. to the dealer; nothing to the consumer.

Q. Do you at times have contracts running along together where the prices are not uniform?

A. We certainly do.

MR. DICKINSON: You mean contracts for selling or buying?

THE WITNESS: For buying.

By MR. SEVERANCE:

Q. For buying your requirements?

A. We certainly do.

MR. SEVERANCE: That is all.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Glessner, what kind of products do you buy that are made by subsidiaries of the United States Steel Corporation?

A. Sheet steel and tin plate in quantities, and a very small tonnage locally of wire, that is so insignificant I have not any records on that; but these two products.

Q. How long have you been buying tin plate?

A. Thirty-four years.

Q. How long have you had to do with the buying of tin plate? How far back does it go?

A. It goes back to May, 1879.

Q. Do you do all of the buying for your company?

A. I do all of the buying in this department that you are concerned in.

Q. And then you have bought tin plate since——

A. Since 1879.

Q. What proportion, what percentage of your tin plate did you buy in 1901 from the United States Steel Corporation?

A. In 1901 in excess of 95 per cent.

Q. And in 1902?

A. I should say about the same.

Q. And in 1903?

A. About the same.

Q. 1904?

A. About the same.

Q. 1905?

A. About the same.

Q. How long would it run that way?

A. It would run that way until the year—it might have been eight, nine or ten years ago, in that vicinity, when the American Sheet & Tin Plate Company had a strike, and where their plants were closed down one summer, and when we had a great deal of difficulty in getting our material, and then we began to divide our tonnage.

Q. What year was that?

A. I can not give you that year.

Q. Wasn't it in 1907?

A. Well, I can not answer that. I would have to simply look up the records as to when that strike occurred. It is a matter of general knowledge, and yet I have not that date in mind, unfortunately.

Q. Whenever that occurred, you say you divided your tonnage?

A. We began to divide our tonnage.

Q. Take the year 1913; what proportion of your tonnage did you buy from the Steel Corporation.

A. Seventy-five per cent.

Q. 1912?

A. About 35 per cent.

Q. And from whom did you buy the other?

A. We bought from the Massillon Rolling Mill Company. You are speaking of 1912?

Q. Yes.

A. Some from Jones & Laughlin and from the Phillips Sheet & Tin Plate Company. Those are the chief ones.

Q. In 1911?

A. 1911, practically from those concerns that I have mentioned.

Q. That is to say, including the Steel Corporation?

A. Including the Steel Corporation.

Q. Well, 1910?

A. Practically the same concerns.

Q. Now, in 1910 what percentage did you buy from the Steel Corporation?

A. Somewhere around 30 to 35 per cent., as I recall it.

Q. 1909?

A. Well, from the time—let me answer that in another way. From the time the strike occurred in the Sheet & Tin Plate plant, we divided that tonnage usually between three or four concerns, but giving the American people more, as a rule, than any of the others, so if there were four dealers, say 30 to 35 per cent. would go to the American Sheet & Tin Plate Company, and the rest would be divided among the other concerns.

Q. That is to say, then, from 1900 down to the time that event occurred, whenever it was, you bought nearly all from the Corporation?

A. Yes, indeed.

Q. After that, down to 1913, you divided it to 1913, when you got back up to something like 75 per cent.?

A. Yes, sir.

Q. Mr. Glessner, do you know the price of tin plate before the American Tin Plate Company was formed?

MR. SEVERANCE: Objected to as not cross examination.

THE WITNESS: I do.

By MR. DICKINSON:

Q. What year was that corporation formed; do you know?

MR. SEVERANCE: I make the same objection.

THE WITNESS: I have no counsel here.

By MR. DICKINSON:

Q. It is not a matter that concerns you.

MR. SEVERANCE: These objections are just for the record.

By MR. DICKINSON:

Q. You are not interested in this law suit at all?

A. No, sir; not at all. I should say two dollars a base box was the price prior to the formation of the American Tin Plate Company, and my recollection would say it was in the latter months of 1898 that the corporation was formed.

Q. After that was formed, do you know what the price became.

A. I certainly do.

MR. SEVERANCE: I make the same objection.

By MR. DICKINSON:

Q. What was it?

A. The price advanced until the price of $4.60 a base box was made officially.

Q. How long did that price continue?

A. According to my recollection, only a few months.

Q. Then was there a change in the price?

A. Yes, sir.

Q. What did it go to?

MR. SEVERANCE: The same objection.

THE WITNESS: It went to $4 per base box.

By MR. DICKINSON:

Q. How long did it continue at that?

A. I can not give you that information.

Q. Was it for a period of time?

MR. SEVERANCE: May it be understood, without repeating it, that this objection of mine goes to all questions as to the situation prior to 1901, the date the Steel Corporation was formed?

MR. DICKINSON: Yes.

THE WITNESS: I am unable to give you any dates of the fixed price for any period after that reduction was made from $4.60 to $4.00, only to say that the course of the market has been up and down; it has gone down; it has gone up.

By MR. DICKINSON:

Q. But has it ever gotten down to $3?

A. Not to my knowledge.

Q. Well, it has gone up sometimes and down sometimes; were there not long periods in various years from 1901 down to the present time where for weeks at a time and at other times for months at a time, the price would be the same?

A. I should say so.

Q. That is a fact, is it?

A. Yes, it is.

Q. Now, what percentage of your sheets, Mr. Glessner, in 1913, have been bought from the United States Steel Corporation?

A. What proportion of sheets in 1913?

Q. Yes.

A. Didn't I already give that, 75 per cent.?

MR. SEVERANCE: You gave that, 75 per cent. Is this tin plate?

THE WITNESS: Was your question sheets?

By MR. DICKINSON:

Q. I am talking about sheets.

A. You did before.

Q. If you think you answered for sheets and said 75 per cent.; now I will ask you for tin plate in 1913; what per cent. of tin plate did you get?

A. About 15 per cent.

Q. About 15 per cent.?

A. Yes.

Q. Of tin plate?

A. Yes, sir.

Q. From the Steel Corporation in 1913?

A. From the Steel Corporation in 1913.

Q. That looks as if we strangely misunderstood each other.

MR. SEVERANCE: No, you asked him for sheets.

THE WITNESS: And I gave it.

MR. SEVERANCE: Are you shocked to find that it was only 15 per cent.?

MR. DICKINSON: When you come to the record I think you will find that it is the other way.

THE WITNESS: I beg your pardon; I misunderstood; I thought the question was for sheets.

MR. DICKINSON: Well, Mr. Severance, I am not so cocksure as you are; I might be mistaken.

THE WITNESS: You are after the facts anyway.

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. Take tin plate, then; you say it is only 15 per cent.?

A. Only 15 per cent.

Q. That you bought from the American Sheet & Tin Plate Company in 1913?

A. Yes.

Q. Now, take 1912; what per cent. have you bought from them?

A. In the neighborhood of 30 to 35 per cent.

Q. Take 1911.

A. About 30 to 35 per cent.

Q. And in 1910?

A. Thirty to 35 per cent., in about the same proportion in all of those years.

Q. What years?

A. All the years from the time of this strike which I mentioned a while ago, when we began to divide up our tonnage; we divided on everything we bought that was made by the Steel Corporation, giving the independents a proportion.

Q. Did this strike you talk about affect the question of your purchases of sheets?

A. It certainly did.

Q. And tin plate both?

A. It did, and galvanized iron.

Q. Well, then, up to the time of that strike what proportion of your sheets did you buy from the Steel Corporation?

A. In excess of 95 per cent.

Q. And that had been back how long?

A. From the time of the organization of the company.

Q. And in tin plate prior to that time?

A. The same thing; all of our sheet products, all in one basket, all in our category.

Q. What was the price of sheets before the American Sheet Steel Company was formed, do you know?

MR. SEVERANCE: I object to that as not cross examination. Counsel understands it is not, of course.

THE WITNESS: I am in a quandary whether I should answer that question.

MR. SEVERANCE: Yes; you should answer. I do not mean that you should, but I mean that you are under no obligation not to answer.

By MR. DICKINSON:

Q. I would just as soon you declined to answer, but if you decline I will put some more questions to you.

A. I am perfectly willing to give you that information; according to my knowledge I should say No. 28 American Bessemer sold around $1.85 per hundred weight.

Q. What was it at the time the American Sheet Steel Company was formed?

MR. SEVERANCE: I make the same objection.

THE WITNESS: My recollection is that it went to $3.25 per hundred.

By MR. DICKINSON:

Q. Has it ever been as low as $1.85 since?

A. Since then?

Q. Yes.

A. Yes, sir; it has.

Q. What year was the first time it reached that?

A. On 1912 contracts.

Q. Is that the first year it ever went that low?

A. The first year that I recall, to my knowledge.

Q. That it went as low as that?

A. Yes; there was terrific competition and fighting.

Q. What was your tonnage in 1913 in sheets and tin plate, respectively?

A. In sheets, my records show that deliveries have been made of 2,700 tons and of tin plate around 750 tons.

Q. Is that about the relation they bore to each other right along?

A. No, some years it varied, depending simply upon trade conditions, some years the sheet tonnage running up and in others running down. We are in competition with mills, and sometimes they get the business and sometimes we get the business.

WILLIAM S. HORNER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Severance:

Q. Where do you live?

A. Pittsburgh.

Q. What is your business?

A. District manager in Pittsburgh for the American Rolling Mill Company of Middletown, Ohio.

Q. For what length of time have you occupied that position?

A. Six or seven years.

Q. Have you any other relation to that company than district manager at Pittsburgh?

A. Director.

Q How old is the corporation?

A. Twelve years, I think.

Q. At what places does that company have plants?

A. Middletown, Ohio, and Zanesville, Ohio.

Q. And what kind of plants has it?

A. At Middletown it has open hearth furnaces and a blooming mill, finishing mills and a factory; and at Zanesville it has six sheet mills.

Q. How many open hearth furnaces?

A. Eight.

Q. How many hot mills?

A. Twenty-one.

Q. What do you make in your finishing mills?

A. Sheet iron and sheet steel.

Q. Is your company the one that makes what is called ingot iron?

A. Yes.

Q. What is that? Sheet iron?

A. It is a pure iron made in an open hearth furnace.

Q. Is that a thing in which you have quite a large trade, that particular kind of product?

A. Yes; we have a large trade in that.

Q. Do you also make ordinary sheet steel?

A. We do.

Q. And do you make roofing?

A. Yes.

Q. Do you make any pipe? That is, I mean sheet iron pipe?

A. We make pipe and trough for buildings; drain pipes for houses. Then we make a conductor and also a culvert pipe; culverts for roads.

Q. Where do you get your pig iron?

A. Buy it on the market from furnaces.

Q. How much has your company increased in size in the last ten years, if at all?

A. The company started with one open hearth furnace, about ten or eleven years ago; I do not remember whether it is ten, eleven or twelve years; and at present we have eight. At first there were but four sheet mills. There are now 21, including two jobbing mills.

Q. What is the capitalization of your company, if you happen to know or remember?

A. Six million dollars.

Q. Now, do you sell your sheet——

A. (Interposing) Pardon me. Recently the capital has been increased, just within the last two weeks. I will give you that capitalization.

MR. DICKINSON: Are you speaking now of paid up capital?

THE WITNESS: Sure. I think the increased capital will bring it up to eight million.

By MR. SEVERANCE:

Q. What is your ingot capacity now?

A. 150,000 tons annually.

Q. Do you sell your sheets in the market in competition with other mills?

A. We do.

Q. And will you give me the names of some of the competing mills that you sell against?

A. Speaking of commodity products—that is, steel, ordinary commodity products, and not with respect to American ingot iron, we compete with the American Sheet & Tin Plate Company, Youngstown Sheet & Tube Company, Brier Hill

Steel Company, De Forest Sheet & Tin Plate Company, Stark Rolling Mill Company, Canton Sheet Steel Company, Massillon Rolling Mill Company, Inland Steel Company, Wheeling Corrugating Company, Parkersburg Iron & Steel Company, Follansbee Brothers Company, La Belle Iron Works, the Allegheny Steel Company, the Apollo Steel Company——

Q. (Interposing) Where are they located?

A. Apollo.

Q. Pennsylvania?

A. Pennsylvania. West Penn Steel Company. They are at Brackenridge, Pennsylvania. Oh, there must be a good many more that I do not think of. Is not that enough?

Q. Alan Wood?

A. Alan Wood, and J. Wood & Brothers Company, and a concern at Wilmington, Delaware; I forget the name just now.

Q. Is it McCullough?

A. Yes.

MR. DICKINSON: McCullough, you say?

THE WITNESS: McCullough Iron Works, at Wilmington, Delaware.

By MR. SEVERANCE:

Q. The Trumbull Steel Company?

A. The Trumbull Steel Company, yes, sir. That is a new concern at Warren, Ohio.

Q. You mentioned the Youngstown Sheet & Tube Company, but you did not mention the Youngstown Iron & Steel Company. Do you compete with them too?

A. Yes; we compete with them too, the Youngstown Iron & Steel Company.

Q. What is and has been during all the time you have been connected with the selling end of this business, the nature of this competition between your company and the others, as to being active, vigorous, and unrestricted, or otherwise?

A. It has been active and vigorous all the time.

Q. And has your company made its own prices, or have its prices been made through understandings and agreements with its competitors?

MR. DICKINSON: I object to that for the reason that the witness is not asked as to——

MR. SEVERANCE: (Interposing) So far as you know. I will put that in.

MR. DICKINSON: If you will put that in, very well.

By MR. SEVERANCE:

Q. So far as you know?

MR. SEVERANCE: He is the selling agent.

THE WITNESS: Repeat that question.

(The question was repeated by the stenographer.)

THE WITNESS: They have made their own prices.

By MR. SEVERANCE:

Q. You have been in charge of the selling end there at Pittsburgh, have you?

A. At Pittsburgh, yes.

Q. Is that one of your large markets or small markets?

A. Well, neither.

Q. A medium sized market?

A. It is a medium sized market. Of course, it is not our market, because our market is mostly west, and we do not come east except in specialties.

Q. What do you do there at your office, then?

A. Of course, we sell.

Q. By "market" you mean not the delivering market?

A. It is not our natural market.

Q. It is not your natural delivering market?

A. No.

Q. But you sell there, do you not, for delivery in the west?

A. No, we do not sell there for delivery in the west.

Q. For what do you sell there?

A. We sell for delivery in Pittsburgh, and in territory immediately surrounding Pittsburgh.

Q. You are a director of the company?

A. Yes.

Q. And, so far as you are advised or have ever heard, is it or is it not a fact that you make your own prices independently of your competitors?

A. We surely do.

MR. DICKINSON: You are speaking now so far as you know?

THE WITNESS: Yes, so far as I know.

By MR. SEVERANCE:

Q. How are the quotations in the trade papers as to being the identical prices at which your product is sold—sheets are sold, or being approximately the prices at which you sell?

A. I do not know how you want me to answer that, hardly.

Q. I want to ask you whether the prices quoted in the trade papers as the market prices of sheets are the prices at which sheets are actually sold, or whether they are only approximate prices.

A. They are only approximate prices. They are a guide but they are not accurate.

Q. Is there a good deal or very little fluctuation in the price of sheets?

A. A great deal of fluctuation.

Q. Take this matter of ingot iron; how much tonnage have you of that?

MR. DICKINSON: Objected to because it is a specialty.

MR. SEVERANCE: We have already evidence in the case that it is a specialty.

THE WITNESS: About 35 to 40 per cent.

By MR. SEVERANCE:

Q. That is, 35 to 40 per cent. of your total output, you mean, do you?

A. Yes, sir.

Q. And are there other sheets made by the American Sheet & Tin Plate Company and other concerns that are sold in the market in competition with that?

A. We do not think so. We think American ingot iron is in a class by itself.

Q. What is it used for?

A. It is used for all purposes where corrosion is a feature.

Q. Aren't there other sheets that are sold for the same purposes for which ingot iron is used?

A. Imitations and claimed to be similar.

Q. They do sell some of it, don't they?

A. Yes; they do.

Q. I am not trying to run down your ingot iron.

A. We do not recognize that they are in a class with the American ingot iron.

Q. You mean by that, do you not, that you simply claim they are not as good, do you not? Is that what you mean? You mean that they are not as good?

MR. DICKINSON: Objected to as leading.

THE WITNESS: We do not think they are.

By MR. SEVERANCE:

Q. But are they used for similar purposes and sold in the market in competition with ingot iron?

A. Yes, sir.

Q. And one of those products, be it good or bad, is made by the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. Called the Keystone brand, isn't it?

A. Yes, sir.

Q. In what way do you sell that ingot iron? Do you sell directly to the people who use it, or do you sell to people for whom it is to be used, such as railroads and others?

A. Both.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Who is the president of your company?

A. George M. Verity.

Q. Where is his office?

A. Middletown, Ohio.

Q. Where is your office?

A. Pittsburgh.

Q. Who is vice-president of the company?

A. W. T. Simpson is first vice-president. Do you want the other vice-president? We have two.

Q. Yes.

A. Robert B. Carnahan, Jr.

Q. Have you got a general manager of your company?

A. Charles R. Hook.

Q. All of them outrank you, I suppose, do they not?

A. No.

Q. Which of them do not? Do you outrank the president?

A. No.

Q. Do you outrank either one of the vice-presidents?

A. Well, I would not know, Judge, whether I do or not.

Q. How?

A. I do not know whether I do or not. I am a director, and our positions are somewhat similar in authority, except for the president.

Q. Do you have anything to do with the management, except in a particular district?

A. As a director, yes.

Q. I am not talking about a director; I am talking about as manager.

A. The directors of the concern map out the policy for it.

Q. In a general way, don't they?

A. And in a specific way.

Q. How often do you meet with the directors?

A. Once a month or oftener.

Q. Just tell me, now, how often you met last month, in the month of November.

A. Twice.

Q. How often did you meet the month before that?

A. Twice.

Q. And you do not know whether you outrank the vice-presidents or they outrank you?

A. The first vice-president is at Zanesvile, and he has charge of the Zanesville plant in an operating way.

Q. Suppose the directors meet; who presides at the meeting?

A. The president.

Q. Suppose the president is not there, who presides in his place?

A. The vice-president would preside in the absence of the president.

Q. In that particular, you recognize the fact that he would outrank you, do you?

A. Yes, sir.

Q. As manager, your district is only the Pittsburgh district, isn't it?

A. I am manager of the Pittsburgh district.

Q. And as manager your jurisdiction extends only to that district, doesn't it?

A. Yes, sir.

Q. Have they other district managers?

A. We have no other district managers. We have district sales officers, but not district managers.

Q. You are the only district manager, then, that the company has?

A. I am.

Q. Does that embrace all of your plants or not? Does your district management embrace all the plants of your company?

A. It embraces all of the market in which I represent the company, which is Pittsburgh and within a radius of three or four hundred miles, and then I assist in their buying and so forth.

Q. Where are your plants located? Are any of them outside the Pittsburgh district, in which you are manager?

A. Our plants are at Middletown, Ohio, and Zanesville, Ohio. Middletown is probably 300 miles from Pittsburgh.

Q. So they are outside of your district?

A. Yes, sir.

Q. Where your jurisdiction as manager extends?

A. Yes, sir.

Q. Now, you spoke of prices and independent prices. You do not undertake to say what arrangement your president may have had in respect to prices, do you?

A. I was not asked.

Q. How?

A. No.

Q. And you have not undertaken to answer as to that, have you?

A. No, sir.

Q. So you have only answered so far as the independent fixing of prices and non-agreement as to prices is concerned, as to what came within your personal knowledge?

A. That is what I spoke of; that was the question.

Q. I just wanted to know if you intended to limit your answer to that.

A. Yes, sir.

MR. SEVERANCE: He could not know what he did not know.

MR. DICKINSON: I know, but what I am calling attention to is that he said particularly there was no arrangement as to prices.

By MR. DICKINSON:

Q. Now, I want to know if you mean by that that there was no arangement, or that there was no arrangement so far as you knew?

A. So far as I knew.

Q. In your territory you handle specialties mainly, don't you?

A. We do.

Q. Now, in 1901 what was the total output of your company in steel ingots?

A. Probably 12,000 tons annually.

Q. I only asked you about one year, 1901.

A. I beg your pardon; that is right, 12,000 tons.

Q. Now, you said "annually." Do you mean that that has been about that ever since?

A. I was speaking of that for that particular year, at that rate, at that time.

Q. What was 1902, then?

A. I don't remember. I don't know how fast we grew at that particular time.

Q. Can you give what it was for any of the years between 1901 and 1905, inclusive?

A. It has grown from about 12,000 in 1901 or 1902 up to 150,000 tons, which is the output now.

Q. In 1913?

A. Yes.

Q. That is not all steel, is it?

A. No, sir.

Q. I am only talking about steel.

MR. SEVERANCE: It is all steel ingots.

MR. COLTON: No, is is not all steel.

THE WITNESS: It is all ingots; it all comes through open hearth furnaces, so it is all ingots.

By MR. DICKINSON:

Q. All steel ingots?

A. Either steel or American ingot iron. Ingot iron is made in an open hearth furnace.

Q. Is it all steel or is it all iron?

A. It is all made in an open hearth furnace.

Q. I know, but can't you tell whether it is steel or iron, some of it?

A. It is pretty hard for me to differentiate accurately.

Q. Between steel and iron?

A. As to the tonnage.

Q. I know, but is it part of it iron and part of it steel?

A. Yes.

Q. And you cannot differentiate as to the tonnage?

A. At the present time it is about 35 per cent. ingot iron and 65 per cent. steel; that is about the way we are running now.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. Is that ingot iron made from pig iron in an open hearth furnace?

A. It is.

Q. Has your action in making sales ever been limited in any way by any directions from your president to have your price coincide with that of your competitors?

A. No, sir.

Q. The president or any other officer?

A. No, sir.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. What do you mean when you say your action has not been limited in making sales by the president? What do you mean by that? I just want to know what you mean.

A. I meant what the question seemed to imply.

Q. What did it seem to you to imply?

A. That my authority to sell had not been limited or defined by the president or any other officers in authority.

Q. Your authority in what respect, as to selling?

A. As to price, buyer, delivery, conditions or otherwise.

Q. Do you fix the prices of your company absolutely?

A. No, sir; I do not fix them; I have a great deal to do with it.

Q. I know, but you do not fix it, do you?

A. No, I do not.

Q. Then you do not mean to say by that that you have the unrestricted right to sell at any price you please, do you?

A. Surely not; I would not assume any such authority.

Mr. Severance: I didn't ask him any such question.

Mr. Dickinson: I do not know whether you did or not; it is not clear what he meant by it.

Mr. Severance: My question was perfectly clear.

By Mr. Dickinson:

Q. Who fixes now the prices at which your company sells?

A. R. C. Phillips, the Secretary, G. H. Charles, the assistant and manager of sales, and myself.

Q. Do you always, every time you go to make a sale, get together and fix the price of that particular sale?

A. Surely not.

Q. Does it require the four of you to be present to fix the price?

A. No, we have a sales policy, you know, and we try to follow it out.

Q. Just tell me how you go about it, you four gentlemen, in fixing your prices, and how that applies to the prices you make.

MR. SEVERANCE: There are only three, are there not?

MR. DICKINSON: I thought he said four.

THE WITNESS: Mr. Phillips, Mr. Charles and myself.

By MR. DICKINSON:

Q. Very well, answer the question with reference to those three.

A. Well, such a market as we have been having the last year or so, it is very hard to answer that question because the prices have been changing so rapidly, and the market has been fluctuating so rapidly that we do it by telephone or otherwise, as we have occasion to do, in order to keep track of the market, because the market has been moving so fast it is pretty hard to keep track of it, and I cannot go to Middletown every time I want to change a price.

Q. But you do not change a price without consulting with them?

A. I do not.

Q. So that you have no unrestricted right, one way or the other, about changing prices yourself?

A. Neither have they; we confer with each other.

Q. In case of a difference, does the majority determine it?

A. We have never had any differences of opinion yet.

Q. You always agree?

A. We agree.

Q. But they are fixed by those three?

A. Yes.

Q. Now, you spoke of this year, and prices fluctuating. Take other years, where they were constant over periods of time.

MR. SEVERANCE: He has not said they were constant.

MR. DICKINSON: I am assuming that they were.

MR. SEVERANCE: I object to that.

THE WITNESS: The same conditions would apply.

By MR. DICKINSON:

Q. What condition?

A. We confer with each other as to the prices which we

should make, or the policy we should adopt with respect to sales.

Q. And would those prices sometimes continue over a period of time?

A. Yes, on an advancing or stiff market, when the mills were very busy, prices would remain stationary for quite a time.

Q. Now, you spoke of quotations in the papers, prices, did you not? You testified something about that?

A. Yes.

Q. And whether the sales corresponded with that. Were you speaking of your sales when you answered that question?

A. Well, I was speaking with regard to sales in general, as I knew them.

Q. Well, but do you know the sales in general made by your competitors and the prices that they make?

A. I very often do.

Q. You very often do, but do you in general know them?

A. I could not know in general, no.

ARTHUR P. BOWEN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live, Mr. Bowen?

A. Chicago.

Q. What is your present occupation?

A. Director of purchases of the Pullman Company.

Q. How long have you had that office?

A. It will be three years the 15th day of February; this coming February.

Q. Prior to that time what was your occupation?

A. I was with the Republic Iron & Steel Company for one year.

Q. In what capacity?

A. Purchasing agent.

Q. In your office as purchasing agent of the Republic Iron & Steel Company, I presume you did not buy many finished steel products?

A. No, we made them.

Q. Mr. Bowen, during your connection with the Pullman Company throughout this period, have you had charge of its purchases of steel supplies?

A. I have directed all the purchases of every description of everything in steel.

Q. What tonnage of all kinds of steel supplies does the Pullman Company buy annually?

A. During the past three years, if I may answer the question in that way—of course our purchases are affected by the conditions of the market—they have averaged approximately 130,000 to 150,000 tons a year.

Q. And of what varieties of steel products do these purchases consist?

A. I would say pretty nearly all of them; that is, plates, shapes, bars, sheets, axles. We have at times bought billets and made our own axles.

Q. Wheels?

A. Yes, wheels.

Q. Pipe?

A. Pipe, nuts, nails, washers.

Q. Some wire?

A. In the rubber-covered form, principally, for electrical purposes.

Q. Do you buy on annual contracts, or contract for your requirements over a stipulated period, or do you buy from time to time as you need the material?

A. We buy from time to time as we need the material to meet contracts we have on hand.

Q. Are these purchases, or are they not, made on competitive basis?

A. Strictly competitive.

Q. To what part of that tonnage does that answer apply?

A. All of it.

Q. Do you, before making your purchases, solicit quotations from different manufacturers of these different products?

A. Yes.

Q. Has that been your custom?

A. It has.

Q. Throughout these three years?

A. It has.

Q. Do those quotations that you receive in answer to a particular inquiry vary, or are they uniform?

A. They vary.

Q. And how long has that been so, Mr. Bowen?

A. Well, over the entire period. I want to correct any impression in the record that these quotations are sent out as written quotations. We may obtain quotations to satisfy ourselves in regard to the market, without asking for written quotations.

Q. I see.

A. In fact, we do not believe very much in the idea of sending out written quotations—asking for written quotations—that is, sending out our requests in writing.

Q. Many of these quotations, then, I assume, are telephoned to you, or are given to you orally by sales agents?

A. Yes.

Q. Is the competition for your business active or otherwise?

A. I should say it was very active.

Q. And how long has that been so, Mr. Bowen?

A. During the entire period.

Q. Has there or has there not been a willingness on the part of the different steel makers to shade and cut prices in order to get your business?

A. Yes, there has been very strong competition.

Q. In matters of price?

A. Yes.

Q. As well as in other ways?

A. Yes.

Q. At this time, Mr. Bowen, can you recall a single instance where all the prices quoted to you on any product at any one time were the same?

A. I cannot recall a definite instance, but I should say that there had been times when that condition prevailed.

Q. Is that common or uncommon?

A. I should say that it was uncommon, but you will find that condition more, too, when the mills are well filled up with orders than otherwise.

Q. I see. Is that or is it not the same with regard to steel as with regard to other materials that you purchase?

A. No, I should say that other materials and steel bear the same relation in that respect.

Q. Your experience is the same with other kinds of purchases as it is with steel?

A. Yes, I should say the same conditions prevail.

Q. Is Mr. George F. Baker a director of your company?

A. He is.

Q. Is Mr. Norman B. Ream a director?

A. He is.

Q. Was Mr. J. P. Morgan, in his lifetime, a director of your company?

A. He was.

Q. Has any one of those gentlemen, or has any officer of the Pullman Company at any time attempted, either directly or indirectly, to influence you in favor of the Steel Corporation?

A. Most emphatically no.

Q. And that answer applies, does it, to your superior officers, as well as to these directors?

A. It does.

Q. Mr. Bowen, whether because of any solicitation or instructions from your superior officers, or from your own inclination, or for any other reason, have you favored the Steel Corporation?

A. Only where it was to the benefit of the company, in price or other conditions.

Q. Benefit of which company?

A. Of the Pullman Company.

Q. Because of the offer of a better price?

A. Yes.

Q. Or a better delivery?

A. Yes.

Q. Or a better quality?

A. Yes. You inserted there something about the superior officers. I did not quite get it, whether it conflicted with the other answer. Will you repeat that?

Q. Yes. My question was whether any of your superior officers had at any time attempted to influence you in favor of the Steel Corporation.

A. No.

Q. Have you had the benefit of a genuine and active competition for your purchases during the past three years, while you were connected with the purchasing department of the Pullman Company?

MR. DICKINSON: This is objected to because it leaves to the witness an interpretation in his own mind of what "genuine competition" is, and it is a mixed question of facts and law, and, therefore, is incompetent.

MR. REED: Will you read the question?

(The question was repeated by the stenographer.)

THE WITNESS: Yes.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Now, Mr. Bowen, you say that you have had the benefit of genuine competition. Have you been in the councils of the manufacturers that sell you, and at their meetings, and do you undertake to say that they have had no understanding as between themselves, or agreements?

A. I have no knowledge of their meetings.

Q. But you do not undertake to speak about them one way or the other, do you?

A. No.

Q. You have no knowledge on that subject?

A. None whatever.

Q. And when you speak of "genuine competition," you do not assume that you know that as to each other they have been entirely free from agreements or combinations?

A. No. My answer, Judge, if you will allow me——

Q. (Interposing) Yes; I would like you to explain.

A. (Continuing)—was to be interpreted that there was an evidence of competition in soliciting our business, evidenced by the prices and the nature of that solicitation as it came to me, without any knowledge of their meetings, or their corporate business.

Q. And you based your answer only upon your judgment formed upon the evidence that came to you through prices and quotations?

A. To ourselves, and my general knowledge of the business that was going in other directions, only.

Q. Let us see what you know about other directions.

A. Well, I am speaking of the general market conditions as understood from the buying end only.

Q. General market conditions. Is it not a fact, Mr. Bowen, that through periods of time—sometimes weeks at a time, or maybe months at a time—the general market price on various of these steel products that you have bought would be substantially the same? I am not speaking now of what you bought at, but I am speaking of the general market price.

A. Well, I am unable to tell what effect that would have on the general market prices. It is fair to say that at periods a stated price was considered the market at that time.

Q. Has not that——

A. (Interposing) But I think so far as we are concerned that that has not always, and but rarely, prevailed.

Q. You mean it has not always prevailed as to what you purchased at?

A. That is exactly it, yes.

Q. Let me state it, and see if I get it correctly: That during the last three years, so far as what was understood to be the general market and the price quotations are concerned, it did continue over periods of weeks or months at a

time, but that in your dealings, why, your prices were not always the same?

A. We never paid any attention to any so-called market prices.

Q. I am not asking you that, Mr. Bowen. I first want to get your knowledge and information, so I will separate that. Is it not a fact that during the last three years, so far as general market price has been concerned, there have been weeks at a time, and even months at a time variously during that three years where upon various of these steel articles the market price would be the same?

A. May I ask you if you mean that the prices from all the principal producers were the same?

Q. I do not mean the prices, now, that may have been quoted to you.

A. No; I understand, but I mean the general market——

Q. (Interposing) I mean the general market price.

A. From all the principal producers?

Q. Yes.

A. I will have to think a moment on that. It has really affected us so little—I want to answer that correctly.

Q. Oh, yes; of course, I assume you want to answer it all correctly.

A. Yes.

MR. REED: Of course, Mr. Bowen, we want answers only from your own knowledge.

THE WITNESS: Yes.

MR. REED: And not what you may have heard from someone else.

THE WITNESS: Yes. Well, I could not state that to be a fact, to my personal knowledge.

By MR. DICKINSON:

Q. Well, can you state that it is not a fact?

A. No.

Q. Mr. Bowen, on plates, when you have gotten quotations have they been for a particular tonnage, or have you gotten quotations and prices to inform yourself generally as to what you thought would be the price, and then have you taken up

and negotiated the particular purchase? I want to know what your custom has been in that respect.

A. Well, it is not always the same.

Q. I did understand you to say, however, that you did not, when you had placed a particular tonnage in any of these articles, submit that tonnage to various manufacturers and ask them to bid on that?

A. We did not submit it in writing. We take up with certain mills that we think will be interested in our business and inquire for prices. In some cases we might not go that far. It would depend entirely on conditions, but we always aimed to obtain competition.

Q. But did you get that competition by submitting at the same time to competitors—by asking at the same time competitors to bid on any particular purchase that you were making?

A. At times, yes, and not always. It depended entirely upon the conditions existing at the time.

Q. That means the conditions of the market?

A. And other conditions.

Q. Well, such other conditions as to where the cars——

A. (Interposing) The delivery, the ability to fill the order; many questions enter into our business, without reference to the price.

Q. So there were, in these three years, frequent occasions where you purchased without competitive prices on a particular purchase?

A. If you mean that question to read that we asked for prices at that time, there were times when we did not ask for them.

Q. Do you carry in your mind now the relative proportions of such purchases as compared with your entire purchases?

A. I will answer that in this way: On certain of the steel products the Chicago market has been able to furnish them lower. I mean by that it does not come from the Pittsburgh district. We have always aimed to minimize the freight conditions as much as possible. On others—you are speaking of all of these products as a whole?

Q. Well, I did that just to avoid taking them up in detail. Of course I can take them up, you know.

A. Yes. Well, the conditions vary on the different steel products.

Q. Have you not very frequently in those three years bought from the Chicago market, from your general information and knowledge as to what you considered the price, and made purchases without on that particular purchase getting competitive prices?

A. Yes.

Q. And you do not know the extent now, do you, as compared with the whole for any particular time that has been done?

A. There is where the various types of product are involved.

Q. Then you can explain that as fully as you please.

A. On plates, structural and bars, those items are manufactured in the Chicago district. On other steel products the manufacturer has not developed in that district to the extent of supplying our needs.

Q. Take plates, structural and bars, what would you say was the percentage of that to your whole percentage in any one year, or the average percentage in these several years?

A. It might be 60 to 75 per cent.

Q. And what percentage of that have you bought in Chicago?

A. The largest portion of it.

Q. Now, take the year 1913; what percentage of your total requirements in steel has been brought from the subsidiaries of the Steel Corporation?

A. 1913?

Q. Yes.

A. That is, this last year?

Q. Well, this present year, yes.

A. I will have to figure that out. Unless we could separate these items it makes it difficult for me to answer those questions as I know you would like to have me answer them.

Q. Of course if I had as much information about it as you, I could make the questions a little better.

A. May I make this statement?

Q. I am perfectly willing for you to make any statement that you want that is relevant.

A. Yes. So far as plates, shapes and bars are concerned, there are only two mills in the Chicago district; one is the Illinois Company's different mills, and the other the Inland Steel Company. We have bought from both of them—the Inland only where we could get proper service, due to the fact that their capacity was limited, and our tonnage in different sizes was great; and we bought from the Illinois Company at lower prices than we could have gone to the Pittsburgh market, where we could have gotten the competition from mills of the same general capacity, that could have supplied our business, although it has been generally understood——

MR. REED: (Interposing) No; we do not want general understandings.

THE WITNESS: Well, I beg pardon—for that reason that we could obtain better figures by purchasing from mills in our own vicinity than we could through the Pittsburgh market and pay the difference in the freight. Thus, the Illinois Company has been practically, from physical conditions, the only source that we could depend on for the quantity that we would use. That relates to the plates, shapes, bars and axles. On sheets, I would say that we have not purchased from the Steel Corporation's subsidiary companies to exceed ten to fifteen per cent. Now, all of those had to be purchased, or a large portion of them, in the Pittsburgh district, for the reason that the sheet mills in Chicago had not been developed to the extent that would supply our needs. I wanted to make this explanation generally, Mr. Dickinson, so that you would get the conditions that we are operating under.

MR. DICKINSON: Now, read my question please.

(The question was repeated by the stenographer.)

By MR. DICKINSON:

Q. Mr. Bowen, I think you have troubled yourself a good deal about giving reasons, when I asked you for facts. Now,

the question that I ask you is: what proportion of all of your steel requirements for 1913 have you bought from subsidiaries of the United States Steel Corporation?

A. On plates, shapes, bars and axles, for the works at Pullman, which is our largest plant, practically all. On sheets, not to exceed 15 per cent. On pipe, nothing. Steel wheels, we have only used a comparatively limited quantity, using other types of wheels than steel wheels, but of the steel wheels I would say 75 per cent. Nails and washers, I am unable to give you those figures, but will state this, that they are bought in competition and from a number of different sources.

Q. Have you finished?

A. Yes, sir.

Q. What proportion of all your steel products does sheets bear to the whole?

MR. REED: Do you mean in money or tonnage, Judge?

MR. DICKINSON: Both ways, so we will have no doubt about it.

THE WITNESS: A very few sheets on freight cars. I probably can answer your question better by saying that we estimate on a passenger car—Pullman sleeping car—ten tons of sheets, and ten tons of structural, plates and bars, and the quantity that we would purchase of sheets as compared with the other material would depend entirely on the quantity of freight car material, or the number of freight car orders that were going through the shops at the time.

By MR. DICKINSON:

Q. Now, you have compared the relative requisites for a car. I asked you what proportion of your steel purchases sheets was. In other words, take all of these things that you have enumerated——

A. (Interposing) Yes.

Q. (Continuing)—and take that as one hundred; what percentage of that would be in sheets?

A. You have asked me a pretty difficult question.

Q. Well, but you have answered some pretty difficult questions.

A. That is true, but I gave it to you as compared to a

car. We know its relation on a passenger car, but we do not use any on the freight cars.

Q. But your answer is not an answer to my question.

A. That is true. I will try and give you the number of cars and the amount of sheet steel.

Q. You may lead out, of course, into a very extensive examination. You understand what my question is, do you not?

A. I cannot answer it without more reliable figures than I have here. The only way I can answer it to-day to your satisfaction and properly would be to give—I know the relative proportions on different cars, and I will try to multiply the approximate number of cars we have built for passenger service. Would that give it as you want it?

Q. I do not know whether that would be a true basis or not, because I am asking you about all your steel purchases in a year, and what proportion of that would be in sheets. Now, you can, of course, answer it the best you can.

A. Roughly, would say we purchased within the last year between 15,000 and 20,000 tons of sheets.

Q. What was your entire tonnage in steel products of the kinds that you have spoken of?

A. The figures that I gave earlier in the testimony were an estimate of from 130,000 to 150,000 tons of steel a year. That did not include wheels, nails, washers, and the smaller products—by-products of steel—but was intended to cover the structural, plates, bars and shapes, as we use the term "steel." I wanted to make myself clear on that.

Q. Then this percentage of sheets, is that the percentage of that, because I do not want to get the wrong percentage applied to the wrong thing.

A. Yes. That would be approximately 15,000 tons of sheets a year.

Q. Then it would be 15,000 as against 130,000 to 150,000, would it not, of sheets—of everything that you have named, excluding whatever you have mentioned there? You know what they are, pipe——

A. Well, I did not include pipe. Our pipe will run about 2,500 tons a year.

Q. I think we are getting pretty badly mixed.

A. No; I will give the figures just as accurately as I can.

Q. I do not mean that, but I mean I think we have lost the relation.

A. Let me see if I can clear it up for you.

Q. You know what I want now, do you?

A. I think I do.

Q. Then make an answer that will cover it.

A. On plates, shapes and bars, from 110,000 to 130,000 tons a year. Approximately 15,000 tons of sheets per year. Approximately 2,500 tons of pipe a year. Wheels——

Q. Steel wheels, now, is that?

A. Yes, steel wheels. I will have to use the number of wheels instead of the tonnage, if you please, although I can give it to you in tonnage approximately, if you desire it.

Q. No, I think not.

A. I could give you these figures very accurately, if I had my books before me, but it is a good deal of approximating without them. I would like to verify the figures that I give you on the number of wheels. It would be difficult for me to approximate that now.

Q. I will say this: I will accept an approximation. You have already stated that you got 75 per cent. of your steel wheels from the Corporation?

A. Yes; that is an approximate answer.

Q. That is enough for me, for my purpose.

A. The other items are small, such as nails and washers, and I could not begin to give you an intelligent answer on that without referring to the books.

Q. Now, nails and washers and pipe, as compared with these other things, are very small, are they not?

A. Very small, yes.

Q. Then, of your large purchases, such as plate, structural, bars, axles and sheets, you have throughout these three years bought, as I catch your figures here, something over 60 per cent. from the Corporation?

MR. REED: He did not say three years. These are 1913 figures that he is giving:

MR. DICKINSON: Very well.

By MR. DICKINSON:

Q. Then, say 1913, and strike out the "three years."

A. Yes.

Q. How would that be for 1912?

A. I could not give you the figures for 1912, without referring to our records.

Q. Could you say whether or not they are materially different from 1913?

A. Yes; conditions were somewhat different in certain products during that year. It might change those figures in varying quantities.

Q. I am speaking of percentages now.

A. Yes; I understand. I would say that the quantity in 1913——

Q. 1912, I am asking about, now.

A. In 1913 was increased over 1912, due largely to the fact that the Illinois Steel Company had equipped themselves to take care of certain items that they were not able to take care of before.

Q. Give me the percentage there of the difference.

A. I would prefer to get my record on that.

Q. The trouble about it is, that requires you to come back here and bring your record, and if you can give it pretty close, I think both sides would——

MR. REED: Prefer it.

MR. DICKINSON: Yes, prefer it. We do not want to string out with these things and have a whole lot of tag ends.

THE WITNESS: That is true.

MR. DICKINSON: Of course, if you do not feel that you can do it, I do not want you to.

THE WITNESS: I understand that. I would say that the percentages were a trifle less in 1912.

MR. REED: What percentages?

THE WITNESS: The percentages referred to in the testimony as given for 1913.

MR. REED: The percentages bought from the Steel Corporation?

MR. DICKINSON: Yes; that is what we are talking about.

THE WITNESS: Yes.

By MR. DICKINSON:

Q. How was it in 1911?

A. There have been such changing conditions that it makes it a little bit difficult for me to answer. I would say that the percentages in 1911 of the products purchased from the Steel Corporation and its subsidiary companies, as compared with the purchases for 1913—the percentages in 1913—were less than they were in 1913. In other words, they have been growing, due to their equipping themselves in the Chicago market to take care of our necessities.

Q. Well, how much less?

A. I cannot answer that, Colonel. I would like to, but I cannot give it to you offhand.

Q. You have bought more from them than you have from the others, have you not?

A. Yes.

Q. All put together?

A. Yes.

Q. You spoke of Mr. Baker. How many times have you come in contact with him officially?

A. Never with him.

Q. Or Mr. Ream?

A. I met Mr. Ream once or possibly twice.

Q. Officially?

A. Never officially.

Q. Mr. Morgan?

A. Never met Mr. Morgan.

Q. As a matter of fact, these gentlemen do not go out there and have anything to do with the control——

A. None whatever.

Q. (Continuing)—of the subordinate officers, do they?

A. None whatever.

Q. Mr. Bowen, please state the last contract that you can recall where on any specific tonnage of any of these steel products you have described, you, in contemplation of purchase, and before purchase, took competitive bids on that par-

ticular transaction, and when it was, and from whom the bids were.

A. Any of the products of the——

Q. Yes, on any of these products? Well, I will say the larger products, such as——

MR. REED: Structural.

By MR. DICKINSON:

Q. (Continuing)—plate, structural, bars, axles?

A. May I interpret your question to mean the last time that I asked for bids from more than one party?

Q. Yes.

A. That party being the Illinois Steel Company?

Q. Yes. Well, more than one?

A. Where I asked for prices——

Q. Where you asked on any particular purchase for quotations, in order to get those quotations with a view of placing your order with one or the other of those competitors.

A. Yes. Prices and business were discussed with Mr. L. E. Block, of the Inland Steel Company, with the idea of forming a line on the market, I should say, within the last 60 to 90 days.

Q. I do not think, Mr. Bowen, you quite caught my question, from your answer. I did not ask you about an idea of forming a line on the market, but I asked you what is the most recent transaction that you carry in your mind, where, in contemplation of a particular tonnage of plates, structural, bars or axles, you solicited quotations, and from whom you got quotations.

A. Outside of the——

Q. Yes.

A. Outside of the Illinois Company?

Q. Yes.

A. This conversation with Mr. L. E. Block is the only case within the last six months, and that, as I explained to you, Colonel Dickinson, is our method of obtaining prices, by discussing with the different sales people in that way.

Q. That is for giving you general information and forming your opinion as to what prices ought to be, is it not?

A. Exactly.

Q. And then you make your contracts whenever you choose, and are guided as much by that as you deem proper?

A. That is it exactly.

Q. Now, going back of six months, can you name any particular transaction where, in contemplation of any particular purchase, you got competitive bids?

A. On plates, shapes and bars?

Q. Yes.

A. Only in this same manner of discussing prices with other makers, both in Chicago and in Pittsburgh, to form our opinion as to the relative value of steel in Chicago as compared with Pittsburgh.

Q. And if I should ask you about 1912, would you say the same?

A. That was our general method of obtaining competition. We knew as far as we could obtain the prices of others, and formed our opinion accordingly, without sending out any written requests for quotations.

Q. Or without asking for competitive bids on particular transactions; is not that true?

A. Possibly, because our inquiry in mind at that time might have covered more than one particular transaction.

Q. But your inquiry was not an inquiry in respect of a price on any particular tonnage, was it?

A. No, I would say not.

Q. Mr. Bowen, what time did you become the purchasing agent of the Pullman Company?

A. In February, three years ago. That will be three years this coming February.

Q. I suppose you are one of the largest consumers of steel products in the United States, are you not?

A. No.

Q. Are you not? I mean of manufactures?

A. No. Taking even in our own business of car building, I think there are others—one or two—possibly three—that are larger. The American Car and Foundry Company——

Q. (Interposing) Well, I said one of the largest, did I not? I did not mean the largest in your line, but take of all the people in the United States that use variously plates, structural and bars, why, you are very large, compared with the generality of them, are you not?

A. I do not know that I can answer that question properly.

Q. Well, you do find, do you not, that the size of your purchase gives you an advantage in price, does it not?

A. Our business is very desirable.

Q. Very desirable?

A. Yes.

Q. And that is always taken into consideration, is it not?

A. I presume so.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Mr. Bowen, what percentage of all of the wheels that your company uses are steel wheels?

A. At the present time, a small percentage.

Q. I mean throughout the year 1913, about what percentage of all your wheels have been steel wheels?

A. In purchases or wheels in service?

Q. Wheels purchased.

A. To give you the answer that you want, I must explain that the built-up wheel or bolted type of wheel, when it is re-tired, becomes a new type of wheel. We have re-tired a great many wheels, but the steel wheel is a comparatively new thing with us, and it is only within the last six months that we have ordered them in any considerable quantities. I would say that we have had rolled steel wheels from the Midvale——

MR. DICKINSON: (Interposing) You are going into something he has not asked you about.

MR. REED: Let me recall the question.

THE WITNESS: Yes.

By Mr. Reed:

Q. Have as much as 25 per cent. of your purchases of new wheels in 1913 been steel wheels?

A. Would you include the re-tired as a new wheel?

Q. No.

A. Offhand, I would say from 20 to 25 per cent.

Q. Is there competition between steel wheels and the other kinds of wheels?

A. You mean as regards price?

Q. As regards everything. Are they used for the same purpose?

A. They are.

Mr. Dickinson: Is not that rather broad? For instance, you do not use steel wheels on freght cars, do you?

The Witness: I understood you to refer to our own Pullman cars.

Mr. Dickinson: Did you?

Mr. Reed: Well, I referred to all kinds of cars.

Mr. Dickinson: He builds a whole lot of freight cars.

The Witness: On freight cars we rarely have discretion on them. They are usually specified by the railroad companies. I assumed you meant those on which we had discretion.

By Mr. Reed:

Q. Are steel wheels ever used on freight cars?

A. Yes.

Q. Are they used on freight cars to any considerable extent?

A. I would say that the cast iron wheel is used to a greater extent.

Q. The steel wheel is a comparatively new thing, is it not?

A. Yes.

Q. About 25 per cent. of your passenger car wheels have been steel during this year?

A. About, I would say offhand, from 20 to 25 per cent. of out wheels for Pullman sleeping cars.

Q. Does the Steel Corporation or any subsidiary of it sell or quote to you on iron wheels?

A. No; not to my knowledge. I do not know of any subsidiary company that does.

Q. Have you purchased plates, shapes or bars from the Inland Steel Company in 1913?

A. In a limited quantity.

Q. Why have your purchases from them not been larger during this year?

MR. DICKINSON: I object to that as irrelevant.

THE WITNESS: Shall I answer?

MR. DICKINSON: Oh, yes.

THE WITNESS: Principally on account of price.

By MR. REED:

Q. Did you buy more from them in 1912 than you did in 1913?

A. I would say about the same proportion.

Q. You spoke about the Illinois Steel Company having recently equipped itself to furnish new items of your purchase to you, and assigned that as one of the reasons for your larger purchases from the Illinois Steel in 1913 than in prior years. Will you tell us, if you please, what new items the Illinois Company has equipped itself to furnish for your business?

A. Special structural sections that we use on our own sleeping cars, that require special rolls, formerly manufactured by eastern mills, Jones & Laughlin being one that I recall at this time. These rolls were put in at the Illinois Steel Company, or Indiana Steel Company plant——

Q. (Interposing) At Gary?

A. At Gary, or South Chicago, I am not sure which, and we were able to obtain that section for less money than we had previously paid on account of its being manufactured in Pittsburgh.

MR. REED: That is all.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. Since that time, have you bought all such sections from the Illinois Steel Company?

A. Yes.

Mr. Dickinson: That is all.

Mr. Reed: That is all.

(Whereupon an adjournment was taken until Monday, December 15, 1913, at 10:30 o'clock a. m.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [redacted] 1919

No. [redacted]

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 24.

DEFENDANTS' TESTIMONY.

FILED MAY 12, 1916.

VOLUME XXIV.

Index of Witnesses.

	Direct.	Cross.	Redirect.	Recross.
Oliver J. Johnson	9835	9840	9862	
William A. Kober	9863	9865	9866	9867
Harold H. Robertson	9868	9871	9872	9872
William H. Foster	9875	9881	9892	9897
Gustave C. Kunow	9898	9901	9913	
William B. Hamblin	9913	9915		
Edward F. Grimm	9918	9922		
John P. Provost	9933	9939		
Henry J. Menges	9945	9949	9961	
Edward N. McKinney	9962	9971	9985	
Hans P. G. Norstrand	9986	10000		
Albert L. Lehman	10003	10009	10014	
Charles G. Taylor	10016	10023	10026	10028
Clarence L. Campbell	10029	10044	10061	10064
Joseph D. Gallagher	10068	10072	10080	
Fairfax S. Landstreet	10081	10091		
Frederick K. Randall	10112	10116		
Robert M. Repp	10123	10126	10130	
Charles T. Marsh	10130	10134	10136	
John M. Olmsted	10136	10147		
Harrison G. Spangler	10177	10180	10181	
George Heard	10182	10187	10200	
Dillworth B. McClelland	10201	10206	10210	
Davis N. Glass	10210	10217		
Fred L. Hawes	10224	10231		

Index of Exhibits.

	Page.
Defendants' Exhibit No. 145	9917
Defendants' Exhibit No. 183	10223
Special Exhibit No. 10	9842
Special Exhibit Nos. 11, 12	10043
Special Exhibit Nos. 13, 14	10044

ONE HUNDRED AND THIRTIETH DAY.

EMPIRE BUILDING,
71 Broadway, New York City,
Monday, December 15, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. BOLLING and MR. REED.

OLIVER J. JOHNSON

was called as a witness on behalf of the defendants, and, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Johnson?

A. Wheeling, West Virginia.

Q. What is your occupation?

A. I am president of the Wheeling Can Company.

Q. How long have you been its president?

A. Since its organization in 1901.

Q. When did the company actually commence business?

A. In 1903.

Q. That is, it was incorporated in 1901, and actually began manufacture in 1903?

A. Yes.

Q. What does the Wheeling Can Company make?

A. The Wheeling Can Company manufactures packers' cans, fruit cans, and lard pails, principally.

Q. What are packers' cans?

A. The cans that are used by the canners of fruits and vegetables, and other food products.

Q. Do you make or do you buy your tin plate?

A. We buy our tin plate.

Q. All of those cans are made of tin plate, are they?

A. Yes, sir.

Q. About how many boxes of tin plate do you buy annually?

A. About 300,000.

Q. There is about 100 pounds of tin plate in each box, is there not?

A. Yes.

Q. So that your purchases run about 15,000 tons?

A. Yes; just about.

Q. Have your purchases been as great as that throughout the whole of the company's operations from 1903 to date, or have they increased or diminished?

A. They have increased.

Q. What were they in 1903, Mr. Johnson?

A. In 1903 about 30,000.

Q. Has the increase been steady and gradual, or has it come in spurts?

MR. DICKINSON: One moment. When you said 30,000 in 1903, did you mean 30,000 boxes?

THE WITNESS: 30,000 boxes; yes, sir.

By MR. REED:

Q. Now, what is your answer as to whether the increase has been steady or——

A. The increase has been steady. We have had an increase about in proportion each year, considering what the business is to-day.

Q. How do you buy your tin plate; on annual contracts or contracts for specific periods, or do you buy just from time to time as you need the material?

A. We buy it on a contract covering our requirements for the year.

Q. And about what time in the year do you ordinarily let that contract?

A. Ordinarily in either October, November or December.

Q. Is the contract made for the calendar year?

A. For the following year.

Q. For the following calendar year?

A. Yes, sir.

Q. Before letting that contract, do you ask quotations from the different manufacturers of tin plate?

A. Yes, sir.

Q. Do you ask them in writing or orally?

A. Orally. Sometimes in writing, however. We advise them that we will be ready to receive propositions.

Q. How do the quotations come in—written or orally?

A. Sometimes they are written, and sometimes oral; most generally oral.

Q. Do the quotations that you receive from the different manufacturers vary or are they uniform in price?

A. They most usually vary. Sometimes they quote the same price; that is, one or two of them. Others will quote different prices.

Q. What range of variation do you get, speaking generally, Mr. Johnson?

A. From about the market price to twenty cents below the market price.

Q. What companies do you ask quotations of?

A. From the American Sheet & Tin Plate Company; Jones & Laughlin; the McKeesport Tin Plate Company; the Phillips Sheet & Tin Plate Company, and the Pope Tin Plate Company, which is now a part of the Phillips.

Q. The Pope and the Phillips consolidated, or one bought the other, I believe?

A. Yes.

Q. Do you ever ask quotations from the Wheeling Corrugating Company?

A. I forgot to mention them; also from the Wheeling Corrugating Company, yes, sir.

Q. All of these companies make tin plate, do they?

A. Yes, sir.

Q. When you began business, Mr. Johnson, in 1903, from what company did you buy your tin plate?

A. From the American Sheet & Tin Plate Company.

Q. Practically all of it?

A. Practically all of it; yes, sir.

Q. In 1904 from what company did you buy?

A. We contracted for our requirements with the Pope Tin Plate Company.

Q. In 1905, 1906 and 1907 with what company did you contract for your requirements?

A. With the American Sheet & Tin Plate Company.

Q. That is, the majority of your tonnage in those years?

A. Yes; and some proportion of the plate in those years came from the Wheeling Corrugating Company in Wheeling.

Q. But the bulk of it came from the American Company?

A. Yes.

MR. DICKINSON: Would you mind asking the percentage, so that it will shorten the examination later?

MR. REED: Certainly; I shall be very glad to.

By MR. REED:

Q. About what percentage, during 1905, 1906 and 1907, did you buy from the American Sheet & Tin Plate Company, and what percentage from the Wheeling Corrugating Company?

A. In the years 1905 and 1906 I should say about 75 per cent. from the American; 25 per cent. from the Corrugating. In 1907 about 25 per cent. from the American and 75 per cent. from the Corrugating Company.

Q. In 1908 from what company did you buy the bulk of your requirements, Mr. Johnson?

A. From the Phillips Sheet & Tin Plate Company.

Q. In 1909?

A. The Phillips Sheet & Tin Plate Company.

Q. 1910?

A. The same in 1910.

Q. And 1911?

A. The same in 1911.

Q. 1912?

A. The same.

Q. This year?

A. Yes, sir.

Q. You are still dealing with the Phillips most largely?

A. Yes.

Q. Why have you given them the bulk of your business in the last six years?

A. It was due principally to competitive prices, they having given us more satisfactory contracts than we were able to secure elsewhere.

Q. How far are their works from yours?

A. I think the nearest mill is about 28 or 30 miles. They have three mills, and one of them is a little farther away than the one from which we receive our tin plate.

Q. How far from your works are the works of the Phillips Company, from which you get your tin plate?

A. That is about 28 or 30 miles.

Q. How far are you from Jones & Laughlin's works?

A. About 66 miles.

Q. I am speaking of the Jones & Laughlin tin plate works.

A. Yes.

Q. Not the Pittsburgh works.

A. I understand that they are located at Pittsburgh; I may be wrong about that.

Q. How far are you from their Aliquippa works?

A. I could not say.

Q. Not as far as 66 miles?

A. I do not know; I have never been to the plant, and I do not know where the plant is located.

Q. I will put it in another way: how far are you from the town of Rochester, Pennsylvania; do you know where that is?

A. No, sir.

Q. Do you know where Beaver Falls is?

A. Yes.

Q. How far are you from there?

MR. DICKINSON: If you know the distance, Mr. Reed, just state it and I will accept it.

MR. REED: I do not know it.

THE WITNESS: I should say about 100 miles. I think Beaver Falls is north of Pittsburgh, is it not? We are 66 miles from Pittsburgh.

By Mr. Reed:

Q. How far are you from the nearest plant of the American Sheet & Tin Plate Company?

A. About one mile.

Q. How far are you from the nearest plant of the Wheeling Corrugating Company?

A. About three and a half miles.

Q. How far are you from the City of McKeesport?

A. Between 60 and 65 miles.

Q. So that all of these plants are within a radius of 100 miles?

A. Yes.

Q. Has the competition among them been active for your business?

A. Yes.

Q. How has that shown itself? Do they send salesmen to your office?

A. The salesmen of the companies that I have mentioned call on us prior to our contracting time each year and at various times during the year, soliciting business.

Q. Do they follow up the business pretty closely?

A. Very closely.

Q. How long has that been so?

A. It began in 1904.

Q. How many boxes of tin plate did you buy that year?

A. About 50,000.

Q. Is that a pretty good sized order? That is, is it a desirable order?

A. Yes.

Mr. Reed: You may cross examine.

CROSS EXAMINATION

By Mr. Dickinson:

Q. What percentage of your requirements for 1913 have you bought from the Phillips Company?

A. Our entire requirements.

Q. Is it a maximum and minimum contract?

A. Yes.

Q. What are the figures?

A. From 275 to 300 thousand base boxes.

Q. When did you make this contract?

A. We made it in October, 1912.

Q. What was the base price on that?

A. If I could be excused from answering that question I would rather not do it.

MR. DICKINSON: You can put it in writing and have it put in the record, but you will have to answer. You can give it to the stenographer and let me see it.

MR. REED: Would it be sufficient, Judge, if Mr. Johnson were to state that figure to you or me privately, and then you could decide whether you wanted it to go into the record or not? As I understand it, for competitive reasons they do not wish to publish the price.

MR. DICKINSON: Perhaps I may consent to strike it out.

THE WITNESS: We are very large buyers and sometimes it is injurious to the companies who make us those prices to have them get out and be published.

MR. DICKINSON: It will not be published; at least we are not going to publish it now. It will go to the court.

MR. REED: I think it is only fair to state to Mr. Johnson that this record seems to be pretty closely followed or studied by people in the steel business generally, and there is no guarantee that anything that is said here will not be known generally through the trade. I know you do not want to embarrass the witness any more than is necessary.

MR. DICKINSON: No; but if a witness comes here and testifies about prices and competition I want to find out what the facts are. He has testified to buying at competitive prices, and I want to know.

THE WITNESS: I am perfectly willing to give all that information, but I would like to have it safeguarded in such a way that it cannot be used.

MR. DICKINSON: We cannot promise that it will protect you, but that is the way it has been done last week in similar cases.

MR. REED: May I suggest, Judge, that the answer be put into the book of special exhibits that is being maintained?

MR. DICKINSON: I am perfectly willing for him to give it there and not to give it out.

MR. REED: How about that suggestion? It will then be known to counsel and to the Court.

MR. DICKINSON: Let me see the amount and we will put it in that way.

MR. REED: I would suggest that that written answer be numbered as a special exhibit, and then you or ourselves, if you want to, might offer it in evidence and have it printed in the book of special exhibits.

By MR. DICKINSON:

Q. Did you get a quotation f. o. b. Pittsburgh?

A. Yes, sir.

Q. Give that, please, will you? Just write it out on the same sheet.

MR. COLTON: This is Pittsburgh price, you know.

MR. REED: Yes, made by the same bidder.

(The witness wrote the answer on the same sheet.)

(The sheet referred to was thereupon marked "Special Exhibit (Johnson) No. 10, December 15, 1913," and will be found in the volume of Special Exhibits.)

By MR. DICKINSON:

Q. You spoke in your testimony of the market price. What was the market price at the time you made this contract?

A. $3.60.

Q. Where?

A. Pittsburgh.

Q. F. o. b. Pittsburgh?

A. F. o. b. seller's factory.

Q. What would that be Pittsburgh?

A. The same thing in Pittsburgh, $3.60.

Q. Now, at the time that you made this contract with the Phillips Company, with whom did you negotiate it?

A. With the president of the Phillips Company.

Q. What was his name?

A. E. T. Weir.

Q. Where did the negotiations take place?

A. I think at my office in Wheeling; I am not sure of that.

Q. What time in October?

A. I have not the date of the contract with me, and I could not state definitely, but I think it was in the month of October.

Q. Did he come there?

A. He usually does.

Q. I am asking you if he did this time.

A. I do not remember, because I am frequently at the headquarters of the Phillips Sheet & Tin Plate Company, and he makes three or four trips to Wheeling a year; I do not remember whether the contract was closed at Wheeling or at his office.

Q. This is about the biggest contract you have ever made, isn't it?

A. It is the biggest contract that we made.

Q. I am talking about you.

A. Yes, sir.

Q. And it is the latest one that you made, isn't it?

A. No, sir.

Q. Have you made one since that?

A. We have made one for next year.

Q. With whom?

A. The same people.

Q. When did you make that?

A. That contract was signed on last Saturday.

Q. Then with the exception of that, this was the latest one you made?

A. Yes.

Q. And you can not tell where you closed it?

A. No, sir; that was more than a year ago. Sometimes I have conferences with the sellers of tin plate in my office, and quite frequently the contracts are written up and sent in to me to be signed after they go home. The date of the contract is the date that I signed it.

Q. I am not speaking of the date that you signed it, but at the time that your minds met when you agreed to buy upon the terms which were afterwards included in this contract. When was that made?

A. It was some time in October. That happened in my office at Wheeling.

Q. It happened in your office?

A. Yes, sir.

Q. And it happened between you and Mr. Weir?

A. Yes, sir.

Q. Had you had any previous negotiations with him up to that time about this contract?

A. Yes, sir.

Q. How long had they been pending?

A. About a month.

Q. When did he make you the price that you closed at?

A. That was in October.

Q. I know, but did he make it at that interview where you closed the arrangement?

A. Yes, sir.

Q. That is the first time that he made you that price?

A. Yes, sir.

Q. Had he made you any other prices prior to that?

A. Yes, sir.

Q. How long before that had he made the last figure?

A. He made it in my office about ten minutes before this price was settled on.

Q. Then how long before that had he made you another price?

A. About two or three weeks before that.

Q. What was the difference between those two prices, the one that you closed at and the one he made you two or three weeks before that?

A. Five cents a box.

Q. The one ten minutes before; what was the difference between that and the price that you closed at?

A. That was five cents a box.

Q. Now, then, the price that he first quoted you was the then general market price, wasn't it?

A. No, sir.

Q. What was the difference?

MR. REED: I think Mr. Johnson means Mr. Weir quoted him the same price three weeks or two weeks—whatever it was—before the contract, as he did ten minutes before they closed.

THE WITNESS: I can explain it to you fully, if you wish me to do it.

By MR. DICKINSON:

Q. I want you to explain it, but I want you to go at it in my own method. Then the price that he quoted you three weeks before, and the price that he quoted you ten minutes before he quoted the price that you closed at, was five cents higher per box than the price that you closed at?

A. Yes; the closing price was on a proposition that I made myself, either to accept or reject.

Q. I am talking now of the difference.

A. Yes, sir.

Q. What was the difference between the price he first quoted you and the then market price?

A. I would not care to state that. I will write it for you on this sheet.

Q. Well, write it, then.

MR. REED: Put it on the same sheet.

(The witness wrote the answer on Special Exhibit No. 10.)

By MR. DICKINSON:

Q. Was this first price quoted you a delivered price, or was it at their factory, or Pittsburgh price?

A. That is the factory price; it is quoted on the same basis as the Pittsburgh price.

Q. You mean to say the figures were the same?

A. Yes, sir. If they deliver to Wheeling they add five cents a box freight, and they do the same from Pittsburgh.

Q. What was the market price at the time you closed your agreements?

A. $3.60.

Q. What was the difference between the market price then and at the time you got your first quotations?

A. They were the same.

Q. How long had the market price been the same?

A. I cannot answer that. I should judge probably—I don't remember when the prices changed, because our contract for the previous year covered the entire year, and the market price might have changed at any time during the year.

Q. Do you know what the market prices were during 1912?

A. There were two prices.

Q. When did the two prevail, and for how long?

A. In the nearly part of the year—I don't know how long—there was a price of $3.40, a base box.

Q. That was the market price?

A. Yes.

Q. Then it changed to what?

A. Then it changed to $3.60.

Q. Those are the only two market prices for that year?

A. Yes.

Q. And the year before, what were the market prices?

A. $3.40.

Q. All that year?

A. For 1912, I think so.

Q. That was 1912?

A. Yes.

Q. For 1911 what was it?

A. You are going back too far. I cannot answer that question without having some records before me.

Q. What was this market price to which you refer?

A. The price that is quoted in the trade papers each year, when there is any change in prices.

Q. The changes in prices?

A. Yes.

Q. Is that known as the market price?

A. Yes, sir.

Q. That continues sometimes for long periods, does it?

A. Usually during the year.

Q. During months at a time of any one year?

A. Yes.

Q. Without any change?

A. Well, there are changes——

Q. I know there are changes in the year, but——

MR. REED: Let him finish, Judge. He was right in the middle of an answer.

THE WITNESS: There are frequent changes in the prices that we buy our tin plate at, regardless of what is quoted in the trade papers. You take——

By MR. DICKINSON:

Q. You are a very large buyer?

A. Yes, sir.

MR. REED: One moment, Judge. The witness had not finished his answer.

MR. DICKINSON: Did I stop you?

MR. REED: He certainly had not finished, when his answer finished with "you take"——

(By request of counsel the stenographer repeated the unfinished answer referred to.)

By MR. DICKINSON:

Q. Do you want to add anything there?

A. No, sir. I think that answers the question.

Q. The fact of your large purchases annually has quite an effect upon your ability to trade and get a price, does it not, below the general market price?

A. To some extent.

Q. Does it not to a very large extent?

A. I do not know that I can answer that question intelligently, because I am the buyer.

Q. You are the buyer?

A. Yes.

Q. When buying, do you not——

A. I am not in a position——

Q. Do you not rely upon and represent the size of your purchase as a basis for getting a price?

A. Yes; but I am not in a position to make a comparison with other buyers.

Q. I understand that. I am just asking you what you do. Do you not rely upon that and represent that as a basis upon which you should get a price?

A. Yes.

Q. And you do get a price below the general market price, do you?

A. Yes.

Q. At the time that you made this contract, in October, 1912, and prior thereto, leading up to it, what quotations did you get other than from the Phillips Company, and from whom did you get them and at what price did you get them?

A. We received quotations from all of the companies that I have mentioned before, from whom we sought prices, and these quotations were given to us during the late fall and early winter of each year, which is the time we always contract for our tin plate during the following calendar year.

Q. Just name those concerns from whom you got quotations after you took up the question of that particular contract. Name the concerns that gave you the quotations, and give the quotations that each gave you, and the time that they gave it to you.

A. I don't understand the question with reference to the contract.

Q. You say that you made a contract in October, 1912, for 275,000 to 300,000 base boxes?

A. Yes, sir.

Q. And you made that contract with the Phillips Company at a price which you have indicated?

A. Yes, sir.

Q. The question is, from whom did you get quotations on that number of boxes at the time previous, and in connection with that purchase. Give the names and the prices that each concern gave you, and the time that they gave it.

A. From the American Sheet & Tin Plate Company, from Jones & Laughlin and the Phillips Sheet & Tin Plate Company.

Q. When did the American Sheet & Tin Plate Company quote you and what quotation did they give you?

A. I don't remember the exact date. It was not in writing. It was made by one of the representatives in my office.

Q. What was the price?

A. I don't remember that.

Q. Well, Jones & Laughlin: what was their price?

A. You are referring to the contract made in the fall of 1912?

Q. Yes. That is the one we have been talking about.

A. $3.50.

Q. When did they give you that?

A. That was made in October.

Q. How long before you closed with the Phillips Company?

A. Probably two weeks.

Q. And you cannot give the price of the American Sheet & Tin Plate Company?

A. No, sir; I don't remember.

Q. Nor when it was given to you?

A. I think it was prior to this time.

Q. You don't know how long before?

A. Prior to the time we received quotations from Jones & Laughlin, and probably two or three weeks prior to that.

Q. You made a contract, did you, for the year 1910—I mean, for your supplies for the year 1910—with the Phillips Company, did you?

A. Yes, sir.

Q. For what percentage of your requirements?

A. I cannot state exactly, but I think probably about 70 per cent.

Q. From whom did you get the other 30 per cent.?

A. The Wheeling Corrugating Company.

Q. When did you make this contract for the 70 per cent.?

A. We made the contract in the fall of 1909.

Q. What month?

A. I could not answer that.

Q. What do you mean by the fall; October, November or December?

A. October, November or December; yes.

Q. With whom did you close that, and where?

A. We made it with Mr. Weir, of the Phillips Sheet & Tin Plate Company.

Q. Where?

A. I don't remember.

Q. Was it by correspondence or personal interview?

A. We always had a personal interview regarding prices, but the contracts frequently were closed by mail.

Q. How was it in this case?

A. I don't remember.

Q. What quotations did you get, and from whom, and at what time in respect to the time that you closed that contract?

A. I do not remember; we had quotations from most of the tin plate manufacturers, but as to the details of it, I can not remember.

Q. That is to say, you can not now give the names of those that you now know made quotations, and when they made the quotations, and what quotations were made; is that correct or not?

A. Each year I have always solicited prices from three or four large manufacturers of tin plate.

Q. You have said that pretty often. I am not asking you about that; but I am asking you about this particular contract that you made in the fall of 1909 for the year 1910, and for you to name those that you now remember you got bids from, and when they made them in reference to the time you closed that contract, and what bid each one made?

A. I can not remember the exact details just as you want it, because I handle hundreds of contracts, and it is going back three or four years; and to answer that question and give you absolute facts as you want them, I can not do that; but in making the statement that we always seek prices and get prices from three or four of the large companies; that is our policy each year, before closing.

Q. And you do not now know how near those prices were to the time that that you closed?

A. Yes.

Q. That is just what I asked you. Just state the prices that were given by each one, and how near it was to the time that you closed this agreement.

A. They varied from the market price to 15 cents under the market price.

Q. I never asked you how they varied from the market

price, or anything about the market price. I asked you to give the names of those that made quotations, and the times in reference to the time you closed that contract, and who made them, and what quotations they made.

A. I can not give you that in detail, but I can tell you what we closed our contract at.

Q. And that is all you can remember about it?

A. Yes; I can not give you the details in figures as to what the various companies quoted.

Q. You say it varied from the market price to below the market price?

A. Yes; and we gave the contract to the lowest bidder.

Q. You do not remember how many of them bid the market price, do you?

A. Yes.

Q. Just state that now; who it was that bid the market price on that contract for 1910, and what the market price was.

A. The Wheeling Corrugating Company.

Q. They bid the market price?

A. Yes.

Q. And who else?

A. You are referring to the year 1910?

Q. I am referring to the contract for the year 1910?

A. Yes, for the year 1910; it is very hard to give you a direct answer to that question, for the reason that all those companies during that year, and since then, have quoted us different prices in competition, and I can not remember the exact details.

Q. Can you remember in reference to that particular contract how many of those quoted the market price and how many did not quote the market price, and what relation their several quotations had to the market price? If so, just give that, if you remember it.

A. No, sir; I can not.

Q. Can you do that for the contracts for the years 1908 and 1909?

A. No, sir.

Q. Now, you contracted for the years 1905 and 1906 with

the American Sheet & Tin Plate Company for as much as 75 per cent. of your requirements, you say?

A. Yes.

Q. Was that contract for both of those years, or separate contracts for each year?

A. Separate contracts for each year.

Q. The contract for 1905; when was that made?

A. I do not remember, but I think it was made late in 1904.

Q. But you do not know the month?

A. No, sir.

Q. Do you know who bid on that contract besides the American Sheet & Tin Plate Company?

A. Yes.

Q. Just state who bid.

A. The Pope Tin Plate Company.

Q. Do you know the price that the Pope Company bid on that contract?

A. They offered us 10 cents under the market price.

Q. What was the market price then?

A. I don't remember.

Q. Did you contract with the American Sheet & Tin Plate Company under the market price?

A. No, sir.

Q. What did you pay them?

A. We paid them the full market price.

Q. How about the following year, 1906?

A. The same thing the following year.

Q. Now, you did not buy any from the Pope Company that year?

A. No, sir.

Q. What was the capacity of the Pope Company that year?

A. I do not know; they had a ten-mill plant; I do not know what the capacity of the mill was.

Q. Did they bid on your entire requirements?

A. Yes; they had a capacity of several times our requirements.

Q. Now, take the American Sheet & Tin Plate Company. You said you bought of them in 1903?

A. Yes.

Q. All your requirements?

A. Yes.

Q. When did you make that contract?

A. I think that was made either in the latter part of 1902 or the early part of 1903.

Q. Did you pay them the market price?

A. Yes.

Q. What was the market price then; do you know?

A. I don't remember.

Q. On that contract who else bid besides the American Sheet & Tin Plate Company?

A. No one; we did not take any bids.

Q. For 1904 did you take bids?

A. Yes.

Q. From whom?

A. From the American Sheet & Tin Plate Company, or the American Tin Plate Company it was at that time, and the Pope Tin Plate Company.

Q. Did you contract at or below the market price?

A. Ten cents below the market price.

Q. With the Pope?

A. Yes.

Q. For all your requirements?

A. Yes.

Q. When you had your contract with Pope, did he give you a guarantee against decline in the official price?

A. Yes.

Q. What did he refer to as the official price?

A. The price quoted in the trade paper, the Metal Market.

Q. Is that usually the price of the American Tin Plate Company?

A. Yes; I think so.

Q. And you had a guarantee against decline in that price?

A. Yes, sir.

Q. Did you have the same sort of guarantee in your contracts with the Phillips Company?

A. My guarantee with the Phillips Company was a guar-

antee against decline in prices named by any legitimate competitor.

Q. And it was not a general guarantee against the official price?

A. No, sir.

Q. Or market price?

A. No, sir.

Q. When did you first get a guarantee of that sort?

A. The first year we contracted with them; I think it was 1908.

Q. You made your contracts for 1907 in the fall of 1906?

A. Yes, sir.

Q. Do you know what month in the year you made it?

A. No, sir; I don't remember the month.

Q. You made two contracts?

A. Yes, sir.

Q. One with the American Sheet & Tin Plate Company, and who was the other; the Corrugated?

A. The Wheeling Corrugating Company.

Q. Were they made at the same time?

A. About the same time; probably a week difference.

Q. A week before?

A. Yes, sir.

Q. Were the prices the same or different?

A. They were different.

Q. Which did you make first, that with the American Sheet & Tin Plate Company or with the Corrugated?

A. With the American Sheet & Tin Plate Company.

Q. When you made this contract with the Corrugated from whom did you solicit bids upon that particular number of boxes, or the maximum or minimum contained in that contract?

A. From the Pope Tin Plate Company, the American Tin Plate Company, and from the Wheeling Corrugating Company.

Q. How long did the Pope bid before you closed with the Wheeling?

A. About three or four weeks.

Q. And the American Sheet & Tin Plate Company, how long did they bid before you closed with the Wheeling?

A. About the same period.

Q. Can you give their respective bids?

A. Yes.

Q. What were they?

A. The Pope Tin Plate Company bid us ten cents below the market price.

Q. And what did the American Sheet & Tin Plate Company bid?

A. The American Sheet & Tin Plate Company's first bid was the market price and the second bid was five cents under the market price. The Wheeling Corrugating Company bid us ten cents under the market price.

Q. When did they first give you that bid?

A. That was made after the other bids were received.

Q. How long after?

A. Probably two or three weeks.

Q. Do you now know whether there had been any change in the market price at that time?

A. No, sir; there had not been.

Q. The market price was pretty constant for long periods of time, I believe you say, for tin plate?

A. Sometimes it changes twice a year.

Q. Twice a year?

A. Yes, sir.

Q. The part that you got from the American Sheet & Tin Plate Company for 1907; was that at the market price or below?

A. That was the 1907 contract that I was just testifying to.

Q. I have asked you about the one with the Wheeling Corrugating Company. Now I am asking you about the 25 per cent. that you got from the American Sheet & Tin Plate Company.

MR. REED: He already testified in answer to your question that the American Sheet & Tin Plate Company first quoted the market price and then bid five cents below it.

MR. DICKINSON: I do not think, Mr. Reed, that that answers it. I asked their bid for the amount that he was covered by the Wheeling contract. He said after the Wheeling contract he made a contract with the American Sheet & Tin Plate Company.

By MR. DICKINSON:

Q. Didn't you?

A. Before.

Q. How long before?

A. Probably a week before.

Q. So that it was below the market price?

A. Below the market price.

Q. How much?

A. Five cents.

Q. Now, for the year 1911 you contracted in the fall of 1910 for that?

A. Yes, sir.

Q. Do you know the month?

A. No, sir; it is either October, November or December; I think in November.

Q. Do you know where it was closed?

A. No, sir.

Q. Or whether it was verbal or not?

A. No, sir.

Q. Can you give now the names of the concerns that bid: I mean that were covered by that particular contract, or what the bids were, and how long they were made before you closed?

A. You are speaking of the contract made for 1911?

Q. Of the supply for 1911?

A. We had a proposition from the Pope Tin Plate Company and from the American Sheet & Tin Plate Company, the Phillips Sheet & Tin Plate Company, the Wheeling Corrugating Company and I believe Jones & Laughlin; I am not sure.

Q. What did they respectively bid, and how long were these bids made before you closed the deal?

A. I cannot give you the exact figures.

Q. Can you give their relation to each other and to the then quoted market price?

A. From the market price to ten cents below the market price.

Q. But you do not know which quoted the market price and which quoted below the market price?

A. Yes; I know two of them that quoted below?

Q. What two were they?

A. The Wheeling Corrugating Company and the Phillips Sheet & Tin Plate Company. There were three that quoted below. And the Pope Company.

Q. How about the others; do you know what they did?

A. I don't remember.

Q. You do not know how long these bids were before the time you closed with the Phillips?

A. No, sir.

Q. What did the American Sheet & Tin Plate bid you, the market price?

A. I don't remember; I think not.

Q. But you don't remember, you said?

A. No, sir.

Q. Then you cannot give any statement about it from memory, can you?

A. Well, I do not think that the American Sheet & Tin Plate Company quoted us the market price on tin plate since 1907 at any time.

Q. Well, can you say they did not?

A. Yes; I could.

Q. That is to you, you are speaking of?

A. Yes, sir.

Q. And your contracts?

A. Yes, sir.

Q. Can you give the quotations made you by the American Sheet & Tin Plate Company for the years that you have been in business, on down to the present time?

A. No, sir.

Q. Could you give them from memory, for any year back of the year 1912?

A. No, sir; not to a penny.

Q. I am not asking you to a penny.

A. Because I don't remember the market prices prevailing during those years. The price was up and down. I could not state, for record, what the prices were.

Q. Can you state, from recollection, what their bids were?

A. Not exactly, no.

Q. Can you approximate it?

A. They would average about five cents under the market price.

Q. Can you give any distinct year where you know that the bid was five cents under the market? If so, what contract was it bid on?

A. For 1907 we contracted with them at five cents under the market price. I remember that, because we entered into a contract with them.

Q. Did they not first quote you the market price for that year?

A. Yes; but that was a quotation that we did not consider.

Q. Then you have been speaking of the prices you contracted at? I want to ask you about the first quotation prices. Do you know how often they varied, or whether they did vary on their first quotations, from the then ruling market price?

A. I don't understand that question.

(The question was repeated by the stenographer.)

By Mr. Dickinson:

Q. Throughout this period we have been speaking of.

A. I cannot say; since 1907——

Q. Have you meant to say that all their quotations to you, even their first quotations to you, were always below the market price?

A. I cannot say that for all the years——

Q. You have not meant to say that, have you?

A. No, sir.

Mr. Reed: The witness had not finished his preceding answer.

By Mr. Dickinson:

Q. Had you finished?

A. No. I have already testified to the fact that their quotations would average about five cents under the market, as nearly as I can remember.

Q. I am not asking about average quotations, and I am not asking you as to the prices that were finally made when the quotations came in and you got to trading, but I am asking you if you have meant to say that their first quotations were not the same as the market price at any time during that period.

A. No, sir; I think not.

Q. What is your answer?

A. I think not.

Q. You think not what? You think they were not the same?

A. Yes, sir.

Q. Do you carry in your memory now anything that justifies you in saying that you think that?

A. I could not testify to the exact prices that they quoted us. I can testify to the fact that the companies with whom we contracted were at the lowest prices of the quotations that we received, and that the other companies, at least the American quotations, were higher than those at which we closed our contract with them.

Q. But, Mr. Johnson, was not your method this: You first got quotations, then you went dealing with the parties, and frequently got new quotations, and then finally closed at the lowest acceptable price? Is not that so?

A. No, sir. Since 1907 I refused to accept a second bid from any companies.

Q. Since 1907?

A. I asked them for their lowest bids, and they never had a second chance at it.

Q. How about before 1907?

A. We had some dickering.

Q. Then you closed, did you not, as a result of your dickering, at a price lower than the original quotations?

A. About five cents.

Q. Did you not close, then, as a result of this dickering, at a price lower than the original quotations?

A. Yes, sir.

Q. Do you now know what reference those original quotations bore to the then ruling market price?

A. I do not grasp your question.

Q. Do you know the difference, now, in one contract, between the original quotations and the price you closed at?

A. In 1907 we closed at a price of five cents under the original quotation.

Q. The original quotation of the person you closed with, or the original quotation of those who bid, or what?

A. I am speaking of the quotation made us by the American Sheet & Tin Plate Company in 1907. We closed with another company for part of our requirements, as I have already testified, at 10 cents under the market price.

Q. For what year?

A. 1907.

Q. Did you not dicker for 1912?

A. Yes, sir.

Q. Did you not say a while ago that you did not dicker since 1907?

MR. REED: He did not say that he did not dicker since then.

By MR. DICKINSON:

Q. I understood you to say that since 1907 you had never gotten but one set of quotations.

A. The 1912 contract was a very peculiar one, and it was not what we call a dicker, although after the contract was signed and closed there were two declines on that contract during that year.

Q. Was that contract closed upon one of the original quotations that was made to you?

A. Yes, sir.

Q. For that year?

A. Yes, sir.

Q. And you got no price different from the original quotation before you closed that contract?

A. We had one quotation from each of the companies that we asked to bid on the contract, and closed with the one giving us the lowest quotation.

Are you speaking of the 1912 contract? I am speaking for the year 1912; not 1913.

Q. I was asking you about the contract made in 1912.

A. Oh.

Q. I will ask you about that, if you did not dicker about that.

A. No. I was speaking of the contract that covered our 1912 requirements.

Q. No; I am not asking you about that. I am asking you about the contract that you made in the fall of 1912, where you said that you got a different price, in ten minutes, from the one that you had gotten before that.

A. We dickered with one party, after we had received prices from the others.

Q. Then you have dickered since 1907, and have closed, since 1907, at a lower price than that given you on the original quotations?

A. In my first statement I think I said clearly that we did not ask for a second quotation from any of these parties. I made the party who closed the contract an offer.

Q. You are distinguishing, then, between asking quotations and your making an offer different from the quotations?

A. Yes, sir.

Q. How many occasions did that apply to throughout this period of time from 1907 down?

A. Probably twice—probably three times.

Q. Name those times.

A. It occurred in 1911, 1912 and 1913.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Johnson, you testified that in your contracts for supply during the years 1905 and 1906 you gave the business to the American Sheet & Tin Plate Company in spite of the fact that the Pope Tin Plate Company had bid ten cents lower price for each year. Was your award of the contract for those years influenced to any extent by questions of service and ability to deliver?

A. Entirely so.

Q. Did you have any difficulty with the Pope Company in 1904?

A. Yes.

Q. Did they live up to their promises to you?

A. No, sir; they did not.

Q. I want to ask you also about the Standard Tin Plate Company, of Canonsburg, and the Washington Tin Plate Company; those are fairly close to your factory, are they not?

A. Yes.

Q. Have they from time to time sent salesmen to interview you?

A. Yes, but we have never asked them for quotations.

Q. Have they ever voluntarily furnished quotations, gratuitously?

A. They have never bid on our contracts.

Q. But they have asked you to be allowed to participate, have they?

A. Yes.

Q. And you never have asked them?

A. No, sir; never have asked them.

WILLIAM A. KOBER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Pittsburgh.

Q. How long have you lived there?

A. All my life.

Q. What is your occupation?

A. Purchasing agent for H. J. Heinz Company.

Q. They are manufacturers of condiments of various sorts?

A. Food products.

Q. How long have you been purchasing agent for the Heinz Company?

A. I have been identified with the department for about 17 years, and in entire charge for a little over four years.

Q. I suppose the Heinz Company uses a very large number of cans each year, does it not?

A. Well, we think we do.

Q. Can you give us any idea of the size of your business?

A. In cans or in plate?

Q. In cans, first.

A. Well, possibly 40,000,000.

Q. 40,000,000 cans a year?

A. Yes.

Q. Do you make any of your cans?

A. Yes; we make the major portion of them.

Q. How long has that been so?

A. Between five and six years, I think.

Q. So that it was about 1909 when you started to manufacture cans yourself?

A. Yes.

Q. Prior to that time I suppose you bought all of your cans from can manufacturers?

A. Yes.

Q. Since you went into the can manufacturing business have you been buying tin plate?

A. Yes.

Q. You do not make any tin plate, do you?

A. No.

Q. About how many boxes of tin plate do you buy annually at the present time?

A. Possibly 75 to 100 thousand base boxes.

Q. That is about 100 pounds of tin plate to the box, is it not?

A. Yes; from 90 to 100, 14 by 22 size; that is the basis or standard under which it is figured.

Q. You still buy some cans, I believe you stated?

A. Yes.

Q. Where do you manufacture those cans, Mr. Kober?

A. At Pittsburgh.

Q. Your factory is there, is it?

A. Yes.

Q. And that is where the headquarters of your company are?

A. Yes.

Q. Do you buy your tin plate on annual contracts, or contracts for particular periods, or do you buy from time to time, just as you happen to need the material?

A. We buy it as we need it.

Q. And when you are about to place an order do you ask quotations from the different manufacturers?

A. Yes.

Q. Tell us some of the manufacturers from whom you ask quotations?

A. Jones & Laughlin Steel Company, the Standard Tin Plate Company at Canonsburg, and the Washington Tin Plate Company, and the American Sheet & Tin Plate Company now. Formerly we asked Pope, but they have been absorbed by other companies.

Q. By the Phillips Company?

A. Yes.

Q. Did you ever ask the Phillips Company to quote?

A. On one or two occasions, I think, since they were absorbed, we did.

Q. Did you ever ask the Canonsburg Company to quote?

A. That is the Standard Tin Plate Company at Canonsburg; yes, very frequently.

Q. Do you ask the McKeesport Company to quote?

A. I think on one occasion, perhaps two.

Q. About what percentage of your tin plate comes from the American Sheet & Tin Plate Company?

A. A very small percentage of it.

Q. Which company has had the bulk of your business?

A. I would say that it lies between the Standard, of Canonsburg and Jones & Laughlin, within the last two or three years.

Q. Prior to the last two or three years how was it?

A. The Pope Tin Plate Company sold us a great deal of plate for two or three years.

Q. Do you buy on a competitive basis?

A. Yes.

Q. How do the quotations that are made to you by these different manufacturers range? Are they uniform in price or do they vary?

A. They vary.

Q. How long has that been so?

A. It has always been the case.

Q. Since you have been buying tin plate?

A. Since we have been buying tin plate, yes.

Q. Is there active competition for your business?

A. Yes; very active.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You speak of the quotations varying. I would like you to define a little more what you mean by quotations varying.

A. Well, perhaps I had better explain to you that we do not buy standard plates or commercial plates. We buy what is called a specially rolled plate, specially selected and extra coated, and in buying that kind of plate the question of the base box figure is entirely eliminated; consequently they quote

us on a schedule price of the various sizes delivered at our plant.

Q. Mr. Kober, is this kind that you buy that you have described as specially rolled and specially selected and specially coated, is that used generally by people, or is it a kind that you require especially in your trade? How is that?

A. We think that we are almost alone in our specifications.

Q. So that it is really a specialty, different from the standard market quotations?

A. Exactly.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Wherein is the difference between the plates that you buy and the ordinary plate?

A. We do not take any wasters.

Q. What is a waster?

A. A waster is a plate that is not perfect, and can possibly be used for working into a cheaper can.

Q. You take only the selected best material?

A. Yes, sir; with one pound extra of tin, pure block tin, to a base box.

Q. Then practically the difference between your purchases and the ordinary purchases of tin plate, is that one more pound of pig tin is spent on the tinning of the material?

A. Yes, sir.

Q. And the defective sheets are sorted out?

A. Yes, and specially rolled.

Q. What kind of special rolling is given the sheets?

A. We want it to run with the grain; we won't take any cross-grain rolling in Bessemer at all. That is not true in open hearth.

Q. You do not require any special rolling in open hearth plate?

A. There does not seem to be any grain to it, and one is used for the tops and bottoms, which is the open hearth, and the Bessemer, which has a grain to it, is rolled so that the

body when it forms will not be harmed, and with Bessemer plate we use that for a body.

Q. All of these mills that you have named are equipped to furnish these kinds of plate that you speak of?

A. They have all furnished it to us.

Q. And they all are anxious to furnish more?

A. I would judge so from the way they come to see us.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. This is, I understand, different from the standard tin plate that is quoted regularly in the trade?

A. What is known as commercial plate.

Q. It is different from the ordinary standard plate?

A. Yes, it is; in the sense that we want a little extra coating on it, and we will not take these wasters because we do not sell cans, and they have a market for what you call a second grade can.

Q. I do not know as you get my question.

A. I beg your pardon.

Q. There is a standard tin plate that is quoted right along?

A. Yes, sir.

Q. That is not your plate?

A. We do not buy it unless we are forced to.

Q. Yours is specially made?

A. Ours is specially made; yes, sir.

By Mr. Reed:

Q. Mr. Kober, is it a strange or unusual thing for a buyer of tin plate to ask a little more tin coating to be put on the plates that he buys?

Mr. Dickinson: This is objected to on the ground that the witness has not shown that he knows what all other people who buy tin plates do, and he has only spoken of his business and the practices in his business.

The Witness: I believe it would be desirable for any concern to use plate that has as much coating on it as they could possibly have added.

By Mr. Reed:

Q. And the requirements of different purchasers vary in that, don't they, all the time?

A. Possibly.

Q. Don't you know that they do?

A. No, I don't know; I can only speak about our own business.

HAROLD H. ROBERTSON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Sewickley, Pennsylvania.

Q. What is your occupation?

A. I am president of the Asbestos Protected Metal Company, Beaver Falls, Pennsylvania.

Q. How long have you been president of that company?

A. About three years.

Q. How far is Beaver Falls from Wheeling, while we are on that subject? Do you know?

A. I should say about 45 miles.

Q. And how far is Aliquippa from there?

A. Possibly a mile or two miles further.

Q. The tin plate works of the Jones & Laughlin Company are at Aliquippa, aren't they?

A. Yes.

Q. Coming, now, to your own company, how long have you been president of the Asbestos Protected Metal Company?

A. Three years. Prior to that I was general manager and treasurer.

Q. How long have you been with the company?

A. Since its organization in 1905.

Q. Where did that company first build its plant?

A. The first plant was at Canton, Massachusetts.

Q. Is that near Boston?

A. Yes; that is about 15 miles south of Boston.

Q. And then did you change the location of your plant after that?

A. In 1910 we moved to Beaver Falls, Pennsylvania.

Q. What does the Asbestos Protected Metal Company make?

A. Building materials, roofing and siding and special trim for buildings, consisting of sheet steel coated with asphalt and asbestos.

Q. It is a special product, is it?

A. It is a special building product; yes, sir.

Q. In that I suppose you use a large quantity of sheet steel?

A. Yes; sheet steel forms the base of our entire output.

Q. About how many tons of sheet steel do you use annually?

A. The quantity varies according to the condition of the building trade, but I should say between 1,500 and 2,000 tons of sheets annually.

Q. Do you buy on annual contracts, or do you buy as you need the material?

A. We usually buy as we require the material.

Q. And before placing such orders, do you ask competitive quotations?

A. Yes, sir; we always ask quotations from at least three or four producers.

Q. Tell us the names of some of the producers whom you do apply to for quotations.

A. The La Belle Iron Works, Steubenville, Ohio; the Youngstown Iron & Steel Company; Youngstown Sheet & Tube Company; De Forest Sheet & Tin Plate Company.

Q. That is at Niles?

A. Niles, Ohio; American Sheet & Tin Plate Company, Pittsburgh.

Q. Do you ever ask the Parkersburg Iron & Steel Company?

A. Until we moved to Beaver Falls, we frequently got quotations from Parkersburg, but they are at a disadvantage now on account of the freight rate in the Pittsburgh district, so that they can not quote us at the present time as favorably as the mills in our own district. That also applies to the Seneca Iron & Steel Company in Buffalo, who used to quote us when we were in the east.

Q. They are too far away now?

A. They are too far away to get in on the freight rates now.

Q. How about the American Rolling Mill Company? Do they ever quote you?

A. They are quoting us for delivery from a mill in Zanesville, Ohio.

Q. Is that mill near enough to be competitive?

A. Yes; they equalize freight with Pittsburgh makers.

Q. Do you ever get quotations from any other companies, or rather are your purchases solicited by salesmen of any other companies, like Follansbee, or the Allegheny Steel or Apollo?

A. We have had calls from salesmen of the Apollo, and also from the Brier Hill Steel Company and the Wheeling Corrugating Company.

Q. And West Penn Steel Company?

A. I think they have solicited us by long distance telephone. I do not remember having seen any of their salesmen.

Q. In asking quotations do you ask from the whole list of these people or simply pick out a few?

A. We usually pick out three or four of the nearby mills.

Q. Why don't you ask the whole lot of them?

A. We find that we get sufficient competition in asking the nearby mills; the deliveries are better from Youngstown and Niles than they are from points east of Pittsburgh.

Q. How about the quotations that come in to you from these different companies: Are they uniform in price or do they vary?

A. They vary. Sometimes we get two or three who quote the same price, but there are usually some variations.

Q. And do you buy usually on a competitive basis?

A. Altogether so, yes, sir.

Q. Have you yourself been familiar with the buying?

A. Yes, sir; I have purchased nearly all the steel sheets that we have used so far.

Q. You give your entire attention to these larger purchases?

A. Yes, sir.

Q. Has the competition for your business been active, Mr. Robertson?

A. Yes; we have always considerable solicitation from manufacturers.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You say you usually solicit quotations from three or four nearby people?

A. Yes, sir.

Q. And that some times two or three of these quote the same?

A. Yes, sir.

Q. I don't suppose you could state how often that has occurred one way or the other, over this whole period, could you?

A. No, sir; I have no means of recalling that definitely.

Q. You do not bear in mind any particular quotations on any particular transaction back of a year or so?

A. No, sir; I think I do recollect the general range of prices.

Q. I understand, but I mean as to particular quotations on particular contracts?

A. No, sir.

Q. And their relation to each other?

A. No, sir.

Q. You don't carry that in your mind?

A. No, sir.

Mr. Dickinson: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Do you know, Mr. Robertson, whether any particular bidder is always the lowest or always the highest?

A. Oh, no. It varies. We have placed our business with four or five different mills in succession.

Q. Just according to who is the lowest bidder?

A. Yes; according to who is the lowest bidder.

RECROSS EXAMINATION.

MR. DICKINSON: I omitted something, and would like to go back to it, if you have no objection, Mr. Reed.

MR. REED: Certainly. Go ahead, Judge.

By MR. DICKINSON:

Q. How long have you had charge of the purchasing end of your concern?

A. Since the company was organized, in 1905.

Q. When did you begin to buy? In 1905 or 1906?

A. I think we bought one carload in 1905.

Q. Take 1906: Do you know what proportion of your requirements you got from the various people with whom you contracted?

A. Our requirements were small then. We bought, I think, two cars from the American Sheet & Tin Plate Company and possibly the same amount from the Parkersburg Iron & Steel Company.

Q. Take the year 1907; what were your requirements that year, as nearly as you can state them?

A. I should say we used between 300 and 500 tons that year.

Q. From whom did you buy that?

A. I think the major portion of it was bought from the American Sheet & Tin Plate Company.

Q. Take 1908; how much did you use?

A. We probably used about 700 tons in 1908.

Q. From whom did you get that?

A. Some was bought from the Youngstown Sheet & Tube

Company, and some from the American Sheet & Tin Plate Company.

Q. What percentage did you get from the American Sheet & Tin Plate Company?

A. I should say about 60 to 65 per cent.

Q. Take 1909: what were your requirements that year?

A. I think we possibly used between 800 and 900 tons in 1909.

Q. From whom did you get that?

A. That was bought principally from the American Sheet & Tin Plate Company.

Q. What do you mean by "principally"?

A. 80 per cent., I should say.

Q. Take 1910: what percentage did you buy from them?

A. About 50 per cent.

Q. What were your requirements for that year?

A. About 1,000 tons.

Q. From whom did you buy that year?

A. We bought some from the Youngstown Sheet & Tube Company, some from the La Belle Iron Works and some from the American Sheet & Tin Plate Company.

Q. How many tons did you get from the Youngstown?

A. I cannot recall exactly. I think possibly a quarter of our needs.

Q. What from the La Belle?

A. About the same amount.

Q. Then about 50 per cent. from the American Sheet & Tin Plate Company?

A. I think so, as I recollect.

Q. Take 1911; what was your tonnage?

A. I think it was about the same as the year previous; about 1,000 tons.

Q. From whom did you buy that year?

A. I think we bought principally from the American Sheet & Tin Plate Company.

Q. About what per cent.?

A. Oh, I should say 80 per cent.

Q. For 1912, what was your tonnage?

A. We bought about 1,800 tons in 1912.

Q. What per cent. did you get from the American Sheet & Tin Plate Company?

A. Less than half.

Q. From whom did you get the other?

A. About equally divided between the La Belle Iron Works and the Youngstown Sheet & Tube Company. I think we bought a few carloads from De Forest, at Niles, Ohio.

Q. This year what tonnage have you bought, for 1913?

A. I think we have bought about 1,200 tons this year, so far.

Q. Is that covered by a written contract?

A. We had a contract during the first three months of this year.

Q. With whom was that?

A. That was with the American Sheet & Tin Plate Company.

Q. What was the tonnage on that?

A. It was 200 tons a month.

Q. For how many months?

A. Three months.

Q. That would be 600 tons?

A. Yes, sir.

Q. Have you bought anything from the American Sheet & Tin Plate Company?

A. Yes; we have been buying a car or two cars a week during the last six months.

Q. Take your whole tonnage this year; how much have you bought from the American Sheet & Tin Plate Company —what percentage?

A. 75 per cent., I judge.

Q. Coming back to 1912, what percentage did you get from the American Sheet & Tin Plate Company?

A. I think 50 per cent.

MR. DICKINSON: That is all.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

WILLIAM H. FOSTER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. You live in Youngstown, do you not?

A. I do.

Q. What is your occupation?

A. I am president of the General Fireproofing Company.

Q. How long have you been president of that company?

A. Two years.

Q. Prior to becoming president, what was your office in the company?

A. Vice-president and general manager.

Q. When did you become vice-president and general manager?

A. The latter part of 1904.

Q. Where is that company's works?

A. Youngstown, Ohio.

Q. What does it make?

A. It manufactures expanded metal for fireproofing purposes, and steel furniture for offices.

Q. Does it make metal lath, too?

A. Yes; that is what I term it.

Q. That is included in the general fireproofing purposes?

A. Yes.

Q. What kind of steel materials does that company buy at the present time?

A. Sheets.

Q. About how many sheets does it buy in a year?

A. 15,000 tons.

Q. Have you in the past been in any other kind of business? I mean, has that same company been in any other kind of business?

A. We have been in the bar business.

Q. What kind of bars did you make?

A. We didn't make bars; we purchased bars.

Q. What kind of bars did you purchase?

A. For reinforcing concrete.

Q. Were those bars of a special design?

A. Mostly, yes.

Q. You did buy some plain twisted bars, did you?

A. Yes.

Q. When did you go out of the concrete bar business?

A. In 1911.

Q. What did you do with that business? Did you abandon it or did you sell it out?

A. We sold it out.

Q. To what company?

A. The Corrugated Bar Company.

Q. How long had you been in the concrete bar business?

A. We began in the latter part of 1906.

Q. And about how many tons of bars did you buy and sell in the course of a year while you were in that business?

A. We sold about 20,000 tons per year.

Q. Now, coming back to the question of sheets, do you buy on long-term contracts, or do you buy from time to time as you need the material, or do you buy in both ways?

A. It depends on the market conditions.

Q. Will you explain a little more fully?

A. If we think steel is going up, we buy on a long-term contract, if we can; and, if we think it is going down, we buy on the market.

Q. In lots as you need the material?

A. Yes.

Q. Before you make these long term contracts, or before you give out orders for specific lots, do you get quotations from different makers of sheets?

A. We do.

Q. Will you give us the names of some of those companies from whom you have been buying your sheets, and from whom you have been getting quotations on sheets?

A. The American Sheet & Tin Plate Company——

MR. COLTON: Which is that, the quotations or the purchases?

MR. REED: Either, in fact; but I will ask him as to quotations first.

By MR. REED:

Q. What companies quoted to you?

A. That is what I understood the question to be. We ask prices from the American Sheet & Tin Plate Company, the Youngstown Sheet & Tube Company, the Brier Hill Steel Company, the Trumbull Steel Company, the La Belle Iron Works, and the Apollo Iron & Steel Company.

Q. That is a new concern, is it not, Mr. Foster?

A. Yes.

Q. How long have they been in the business?

A. About nine months; possibly not more than six; I could not tell exactly.

Q. What others?

A. The Allegheny Steel Company, and one other concern whose name I cannot remember.

Q. Do you get quotations from the American Rolling Mill Company?

A. Yes.

Q. Do you get quotations from the West Penn Steel Company?

A. The West Penn—I was trying to think of those people; yes.

Q. Do you get quotations from the Youngstown Iron & Steel Company?

A. The Youngstown Iron & Steel Company, that is true.

Q. That used to be called the Youngstown Iron & Steel Roofing Company, did it not?

A. It did.

Q. Now, do these quotations that you receive from these different sheet manufacturers in response to a particular inquiry vary, or are they uniform?

A. They vary.

Q. How long has that been so?

A. Well, it is nearly always so, except during times when business is particularly active; then the quotations are closer, more uniform than otherwise.

Q. But when the mills need the business, Mr. Foster, what has been your experience?

MR. COLTON: I object to that on the ground that the witness has not been shown to know when mills need the business, or to have any knowledge of the condition of the mills.

THE WITNESS: Well, the quotations vary more when business is inactive than when business is active.

By MR. REED:

Q. What range of quotations do you get between the prices that are quoted to you in response to a particular inquiry?

A. Anywhere from $1 to $7 a ton.

Q. Is there a real and active competition for your business?

A. Decidedly so.

Q. Has that been so all along?

A. Yes.

Q. Mr. Foster, what part of your sheet requirements in the year 1913 have you bought from the American Sheet & Tin Plate Company?

A. We have not bought any.

Q. How about the year 1912?

A. We did not buy any during the year 1912. We took some few deliveries during 1912 for material purchased in 1911.

Q. In 1911 about what percentage of your purchases were made from the Steel Corporation?

A. As near as I remember about 45 per cent. I would have to refer to my notes to be sure about that; it is going back pretty far; I have the notes in my pocket if you wish it.

Q. If it is a memorandum that you made yourself I wish you would refer to it.

A. In 1911 our purchases from the Sheet & Tin Plate Company were 45 per cent. of our whole purchases.

Q. Just give us the years on back, if you have the figures there.

A. 1910 about 61 per cent. 1909, 66 per cent. 1908, 75 per cent. 1905, 1906 and 1907 about 85 per cent.; it may have varied a little; that is approximately correct.

Q. In the past two years where have you placed your business while you have been buying nothing from the American Sheet & Tin Plate Company?

A. With the various mills whose names I gave you.

Q. Have you bought on a competitive basis?

A. Always.

Q. That is, giving your business to the lowest bidder?

A. Always.

Q. Other things being equal?

A. Yes, sir.

Q. Coming back to your bar business, which I understand you were in from about 1905 to 1908: You say you bought about 20,000 tons of bars per year?

A. Yes, sir.

Q. From what companies did you buy those bars?

A. From the Carnegie Steel Company, the Republic Iron & Steel Company.

Q. You have told us that a large part of these bars were rolled to a special design or deformity; were there any other companies besides the Republic Iron & Steel Company and the Carnegie Steel Company that had rolls of that particular special kind?

A. No; there were no other companies.

Q. So that your purchases were necessarily confined to those two, were they?

A. Yes, sir.

Q. Did any other steel manufacturers make concrete bars for either themselves or for the patentees which were sold in competition with your bars?

A. Yes.

Q. What companies do you now remember that were in the bar business in that same way?

A. Lackawanna Steel Company and Jones & Laughlin.

Q. Was the Cambria in it?

A. I do not know that they were; they are further east than we operated.

Q. You were more in the Ohio field?

A. Yes, sir.

Q. What is the name of the company whose corrugated bars the Lackawanna made?

A. The Corrugated Bar Company.

Q. And for what company did Jones & Laughlin roll bars?

A. Jones & Laughlin, to my knowledge, did not roll bars for any large operators, in concrete reinforcing bars; they sold bars; their practice when we were in the business was to sell their bars more directly to the consumer.

Q. Was there any competition from 1905 to 1908 in the sale of corrugated or deformed bars for concrete reinforcement?

A. There were a number of mills in addition to those that I have mentioned which were engaged in rolling deformed bars for reinforcing concrete; mainly those rolling them out of old rails.

Q. I limited that question to 1908. Now, tell us what the condition was as to competition from the time you went into the bar business until you sold out in 1911; was there competition throughout that period?

A. Well, the competition grew more active. The Republic Iron & Steel Company increased their bar capacity; generally speaking the competition on bars became more active except I would say not so much so as in sheets.

Q. Was it active enough to bring your profits down to any extent in the bar business?

A. Yes.

Q. Did you find your competitors selling anywhere near your cost?

A. Yes; so much so that we sold out and quit the business.

Q. How about the prices that were quoted you by the Carnegie and Republic on bars of your special design, Mr. Foster; did those prices vary or were they uniform?

A. They varied; the Republic was generally a little lower than Carnegie.

Q. The Republic generally was a little lower?

A. Yes, sir.

Q. And at that do you know whether either the Republic or the Carnegie was giving you as low prices as the Lackawanna was giving the Corrugated Bar Company?

A. I do not know, as a matter of knowledge. I understood——

MR. COLTON: I object to understandings.

By MR. REED:

Q. Just finish your answer, please.

A. I had understood that the Corrugated Bar Company, in fact they told me——

MR. COLTON: Objected to as hearsay on the witness's own statement.

By MR. REED:

Q. Proceed with your answer.

A. Mr. Garrison, the vice-president and general manager of the Corrugated Bar Company told me that they had a converting contract with the Lackawanna Steel Company whereby they got bars based on the price of pig iron, plus a certain extra; I have forgotten what it was. He told me.

Q. Did they seem to be able to get business from you when you were quoting a low price?

A. Yes; they took business away from us to such an extent that we were practically forced to sell out because there was no profit in the business.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. What year did you go into the sheet business?

A. What year did I go into it personally, or the General Fireproofing Company?

Q. I asked you what year you went into the sheet business?

A. You mean me personally?

Q. Yes.

A. I sold out of the sheet business in 1899 or 1900.

Q. You sold out of it in 1899 or 1900?

A. Yes; as a manufacturer of sheets.

Q. Who did you sell to?

A. To the American Sheet Steel Company.

Q. What mill or mills did you sell to them?

A. I was interested as a small stockholder in the Falcon Mills at Niles.

Q. And then how long was it before you were connected with the sheet business again; that is what I intended to go into later.

MR. REED: You mean as a purchaser of sheets?

MR. COLTON: Yes, as a purchaser of sheets.

THE WITNESS: You asked me before when I was in the sheet business.

By MR. COLTON:

Q. Yes.

A. The latter part of 1904.

Q. And were you purchasing agent?

A. No, sir; I was vice-president and general manager.

Q. What was the name of your concern?

A. General Fireproofing Company.

Q. Did it have a purchasing agent?

A. A purchasing agent who purchased all sorts of supplies except steel, which I myself personally purchased.

Q. You purchased all the steel supplies?

A. The purchasing agent purchases supplies, and I purchase the steel. By "supplies" I mean the smaller articles—nuts, bolts, rivets, etc.

Q. Did you purchase any steel outside of the sheets?

A. Bars.

Q. Are you referring to the business of the General Fireproofing Company when you speak of your purchasing bars?

A. Yes, sir.

Q. You purchased bars for that company?

A. Yes.

Q. As well as for general sales?

MR. REED: You did not understand that Mr. Foster testified that the General Fireproofing Company used to be in the business of selling concrete bars, and all along it has been in the business of making metal lath and that kind of thing. It is the same company in both kinds of business.

MR. COLTON: I see.

By MR. COLTON:

Q. In 1905 from what different companies did you get quotations on sheets?

A. The American Sheet & Tin Plate Company, the Youngstown Sheet & Tube Company, the Youngstown Iron & Steel Roofing Company, the La Belle Iron Works, and the predecessors of the Thomas Steel Company—I have forgotten their name now.

MR. COLTON: All right; that will be sufficient.

MR. REED: The Niles Steel Company, was it not?

THE WITNESS: I think it was Niles.

By MR. COLTON:

Q. Is that all you can remember?

A. That is all.

Q. And you purchased that year about 85 per cent. of your sheet steel from the American Sheet & Tin Plate Company?

A. I did.

Q. What kind of sheets?

A. I will have to ask you what you mean by that.

Q. Were they common black sheets?

A. As to the quality, they were partly what we term metal furniture quality and partly sheets for expanding purposes for the manufacture of lath and expanded metal.

Q. Which of those classes of sheets are nearer to the common black sheets, as generally known to the trade?

A. The latter are nearer.

Q. And of which did you purchase the larger amount?

A. The latter.

Q. What tonnage did you purchase of the character that are more nearly like the common black sheets?

A. About 65 per cent. of the whole.

Q. Were you familiar at that time with the official price of the American Sheet & Tin Plate Company on sheets?

A. Oh, yes.

Q. Did you pay their official price at that time?

A. Yes.

Q. In 1905, do you know whether their official price was the quoted price in the trade papers?

A. I could not remember that; that is too long ago.

Q. You paid the American Sheet & Tin Plate Company its official price, however, whether it was quoted in the trade papers or not?

A. Yes.

Q. You did not get them to cut under it at all during 1905?

A. No.

Q. How about 1906: did you get them to cut under their official price then?

A. Not that I remember.

MR. REED: This paper here perhaps will show.

THE WITNESS: Yes, that will show, but I could not tell whether it was their official price or not. I would not have any way of checking it.

By MR. COLTON:

Q. In 1907 did you pay them their official price?

MR. REED: What do you mean by "their official price"?

MR. COLTON: Why, Mr. Reed, they have an official price. I think the witness understands what the official price is.

(By request of Mr. Colton the stenographer read a former question and answer as follows:)

"Q. Did you pay their official price at that time?

"A. Yes."

THE WITNESS: I don't know how I could tell. They would not tell me what price they were selling to others at. I don't know how I could tell.

MR. REED: Do you mean by that that you were paying the price quoted by the trade papers?

THE WITNESS: I was paying the price they asked. I don't

remember, as I said, whether it was the price quoted in the trade papers or not. I don't know whether it was the official price. It was simply the price asked.

MR. REED: This paper here would show it, I suppose.

MR. COLTON: I would rather that he would not use a memorandum just now.

MR. REED: All right.

By MR. COLTON:

Q. In 1907 did you pay the price they first asked you?

A. Oh, yes. They do not shade their price.

Q. In 1908 did you pay the price they first asked you?

A. Yes.

Q. In 1909 were you still paying the price they first asked?

A. Yes, I expect so.

Q. In 1908 you don't know whether that price that was asked you was the same as the price of theirs published in the trade papers, if it is published in the trade papers?

A. I couldn't tell you the exact figures.

MR. REED: That was not what you were asked.

By MR. COLTON:

Q. I did not ask the exact figures. I asked whether you knew or not that the price you paid the American Sheet & Tin Plate Company was the same price as that quoted in the trade papers as their price?

A. I would say that in a general way the trade papers quoted about two dollars a ton over the market.

Q. I am not asking you about the present time. I am asking you about the year 1908.

A. I don't remember what the trade papers quoted in 1908.

Q. And you don't remember what they quoted in any one of the years 1905, 1906 and 1907, do you?

A. No, I don't remember specifically.

Q. You neither remember what they quoted, nor its relation to the price you were paying the American Sheet & Tin Plate Company at that time, do you?

A. No.

MR. REED: I understand you do not want the witness to refer to any memorandum that he may have, Mr. Colton?

MR. COLTON: I am now testing his memory, I said.

By MR. COLTON:

Q. In 1910 do you recall what price you paid the American Sheet & Tin Plate Company for sheets?

A. In 1910, as I recall the market, there was quite a violent fluctuation in the price of sheets.

(By request of Mr. Colton, the question was repeated by the stenographer.)

A. I cannot recall any one price, no.

By MR. COLTON:

Q. How many contracts did you make with the American Sheet & Tin Plate Company during 1910?

A. How many in number or in tons?

Q. In number?

A. I recall we made two contracts in 1910.

Q. When did you make the first contract in 1910?

A. I don't remember.

Q. Was it the first part of the year?

A. I do not remember without referring to my notes.

Q. Do you remember the price at which you made the first contract in 1910?

A. No.

Q. Did you have a base price with the American Sheet & Tin Plate Company?

A. Yes.

Q. With a system of extras?

A. Yes.

Q. What was used as a base?

A. 28 gauge.

Q. 28 gauge of what character of material?

A. Well, what they call American Bessemer.

Q. Do you know what price you paid them on the second contract?

A. No; I do not remember.

Q. In 1905 do you recall how many contracts you had with the American Sheet & Tin Plate Company?

A. No.

Q. Do you now recall how many of the different quotations you received during 1905 were alike and how many were different at any given time?

A. No, I could not tell you that.

Q. Would the same be true as to 1906?

A. Yes; I would say so.

Q. Would the same be true of 1907?

A. Well, in 1907 and after that the variation was greater; that is a matter that I remember distinctly, due to the fact that competition was increasing.

Q. Do you now recall how many were alike and how many were different, and the different cases? Could you give us any information on that subject for 1907?

A. No; after I would make a purchase the matter would pass out of my mind as to those technical details; they were not of sufficient importance to tax my mind with.

Q. Is the same true for 1908? I mean, would your answer be the same for 1908?

A. Except that I would say that the fluctuations were wider as we bought a larger percentage outside of the Steel Corporation.

Q. As to how many were alike and how many were different at different times you cannot state?

A. No.

Q. Would your answer be the same with reference to 1909?

A. Yes.

Q. Don't you recall very marked fluctuations during 1909?

A. Yes; I remember that in 1909 sheets were up and down, as I recall it.

Q. What were the variations in 1909, as near as you can recall?

A. I don't remember now.

Q. What was the difference between the high and low in dollars and cents, as near as you can give it?

A. I would say that in 1908, after the panic, the prices were held for some time and then they went down. They

went down in 1909 around $1.85 as I remember it, and then they went up again.

Q. How were prices in 1910 in sheets?

A. Well, we had a period when they went up and then they went down again.

Q. And as to the number that quoted the same price and the number that quoted different prices at different times you cannot give any information as to the extent to which they were alike and to which they were different in 1910?

A. Well, I would say in a general way——

Q. (Interposing) I am speaking of 1910, you understand.

A. I understand. In 1910 we were still feeling more or less the effects of 1908, during 1910. I would say that of the half dozen people we would ask for a price four would be pretty uniform and two would be perhaps lower than the other four.

Q. Now, as to 1911, I suppose you would make the same sort of statement, proper statement, for 1911 that you made for 1910? I mean, suiting the statement to the facts and to the difference in the years.

A. As to what?

Q. With respect to the number that would be the same and the number that would be different from time to time during 1911, so far as you recollect.

A. In 1911 there would be more variations. In 1911 we had the extreme low prices, the lowest prices that we ever had on sheets. It went down to $1.75, and naturally the variations were wider.

Q. You mean the lowest price since you began to purchase sheets?

A. Yes; the lowest price in the last twelve years.

Q. And do you recall when it began to go down? Did it go down suddenly in 1911?

A. Well, there was a sort of gradual slumping off.

Q. Was there not rather a marked drop after the announcement by Mr. Topping that he would withdraw from the cooperative movement?

A. Of course that started it, yes.

Q. Do you recall from what point sheets went down to the extent that they did go down?

A. Do I recall from what point?

Q. Yes, from about what point in the start in 1911 did it go down to 1.75?

A. At $2.30, as I remember it.

Q. Did it start about $2.30, and before the end of the year 1911 you purchased them at $1.75?

A. Yes.

Q. I understood you to say the bulk of your bar business was in a special style of bars?

A. Yes; known commercially as the Lug bar.

Q. I also understood you to say that there was greater fluctuation in sheets than there was in bars as a general thing; is that correct?

A. Yes.

Q. Now, you have never manufactured bars?

A. No.

Q. So you do not know anything about how much manufacturers were making on the bars that they sold to you, do you?

A. No.

Q. They did not leave you enough profit to continue as middlemen in selling bars?

A. That is the idea.

Q. So you sold out.

A. Yes.

Q. What percentage of your purchases of bars did you get from the Carnegie in 1905?

A. Practically all.

Q. 1906?

A. The larger part of our purchases were from the Carnegie.

Q. Could you give 1905 in rough percentage?

A. I think about 95 per cent.

Q. And the same for 1906?

A. About 90 per cent.

Q. 1907?

A. Of course 1905 and 1906 we were doing practically no bar business; we were not then engaged in the concrete reinforcing bar business. We simply bought bars in some quantities for our general run of work such as we buy now.

Q. You bought the usual bars during 1905 and 1906 for general work; was that it?

A. Yes; such bars as we used in connection with our other manufacturing business. We were not then in the concrete reinforcing bar business; not until the latter part of 1906.

Q. And in 1907 what percentage of your bars did you buy from the Carnegie Company?

A. About 90 per cent.

Q. 1908?

A. About 65 per cent.

Q. 1909?

A. About 50 per cent.

Q. I suppose you did not buy from any other subsidiaries of the Steel Corporation except Carnegie?

A. No; just from Carnegie.

Q. 1910?

A. Our bar business was about divided between Carnegie and the Republic equally.

Q. And what percentage from each? Of course, 50 per cent. from each?

A. Yes, about.

Q. Fifty per cent. would be about what you bought from Carnegie, then?

A. Yes, sir.

Q. And 1911?

A. We bought more from the Republic in 1911; say, 40 from Carnegie and 60 from the Republic.

Q. Did you get advantage of the severe cut that occurred in bars, or did you get the advantage in prices due to the severe cut in bars in 1911?

A. I expect so.

Q. Do you recall that there was a severe cut in bars at that time?

A. I certainly do. I recall that we had to stand a shrinkage on bars.

Q. You had bars on hand at the time the cut occurred, and you, being a middleman, had to stand whatever the difference was between that and the market price?

A. Yes, sir.

Q. How much was the cut?

A. Bars went down from $1.30, as I remember; they kept going down until they got down to a cent a pound.

Q. What was the lowest you bought at during 1911?

A. My recollection is that we bought at 95 cents base.

Q. What was the lowest you bought bars at in 1909, if you recall?

A. I don't remember that.

Q. Don't you recall the severe cut that occurred in bars in 1909, along with the other steel products?

A. Yes; in the latter part of 1908 it went down to about the same price; not quite so low, as I remember it; about $1.10.

Q. In 1909 the price went to about $1.10?

A. 1909; yes, sir. The latter part of 1908, it may have been; I am not sure about that.

Q. It occurred about that time?

A. Yes; after the panic of 1907.

Q. And I believe you said prices held for some time and then there was this drastic cut, but in respect to bars, not so drastic as it was in 1911 in respect to bars?

A. Perhaps not quite so much, but there was not a great deal of difference, to my recollection.

Q. Both were severe and marked cuts, and it did not go down with a jump in 1909, but there would be cut after cut before it got down?

A. Yes, sir.

Q. And was the same thing true of 1911, about the method of going down?

A. Yes, sir; the supply and demand seemed to force them down.

Q. What do you know about—take 1908: do you know what capacity the mills were running at in 1908, in bars?

A. No, I do not remember.

Q. Don't you know that the steel mills ran at a lower capacity in 1908 than they did in 1909?

A. I do not know that to be so, but I would suspect that it was so; lower prices would start——

Q. Lower prices bring in business?

A. Yes; lower prices start up consumption.

REDIRECT EXAMINATION

By Mr. Reed:

Q. From any memoranda that you have with you, Mr. Foster, could you state whether you paid the American Sheet & Tin Plate Company as much for those sheets in either 1905 or 1906 as the prices quoted in the Iron Age at the time those contracts were made?

A. In a general way, I would say that we paid them about two dollars a ton less then——

Q. Less than the Iron Age prices?

A. Yes. 1905 and 1906 was the time of your question?

Q. Yes; that was when you started to buy?

A. Yes, sir.

Q. From any memorandum that you have with you, can you tell us——

Mr. Colton: You asked him that question from memoranda; he did not look at his memorandum.

Mr. Reed: The answer that he has just given me he did not make from any memorandum.

By Mr. Reed:

Q. Now, I will ask you, Mr. Foster, if you have any memorandum with you which shows the prices quoted by the Iron Age in 1905 and the prices that you were paying at that time.

A. Yes, sir.

Q. In what month of that year did you make a contract?

A. August.

Q. What price did you pay for your sheets; what Pittsburgh base price did you pay?

A. $2.20.

Q. At that time what was the Iron Age quoting on sheets?

A. $2.25.

Q. When was the next contract that you made with them on sheets?

A. In July, 1906.

Q. At what price did you make it?

MR. COLTON: I object to the use of this memorandum, it not being shown that the witness has such relation to it as to make him competent to testify from it.

By MR. REED:

Q. At what price did you make your contract in July, 1906?

A. $2.40.

Q. What was the Iron Age quoting at that time?

A. $2.50.

Q. When did you make your next contract?

A. December, 1906.

Q. At what price?

A. $2.55.

Q. What was the Iron Age quoting then?

A. $2.60.

Q. Did you make any other than those three contracts in 1905 and 1906?

A. We did not.

Q. Coming down to this period in 1909 that Mr. Colton asked you about when the price on all steel materials fell in the spring of 1909; what was the first contract that you made in 1909 for sheets?

A. What do you mean by "what was the first contract"?

Q. I mean just what I say; at what time in 1909 did you make your first contract that year, and with whom did you make it?

A. I did not understand your question.

Q. And for how much was it?

A. I did not understand the question. In May, 1909, with the Youngstown Iron & Steel Roofing Company, it was at that time.

Q. At what price?

A. $2.15.

Q. What was the Iron Age quoting then?

A. $2.20.

Q. What was the next contract that you made?

A. With the Thomas Steel Company.

Q. In what month?

A. June.

Q. At what price?

A. The same price.

Q. What is the Iron Age still quoting—$2.20?

A. $2.20; yes, sir.

Q. And what was the next one that you made in 1909?

A. The American Sheet & Tin Plate Company.

Q. What month?

A. July.

Q. At what price?

A. $2.20.

Q. That is the same that was quoted in the Iron Age?

A. Yes, sir.

Q. Did you make any other contract in 1909 for sheets?

A. Yes, sir.

Q. With what company and in what month and at what price?

A. With the American Sheet & Tin Plate Company in December, at $2.35.

Q. What was the price then quoted by the Iron Age?

A. $2.40.

Q. What was the next contract you made, Mr. Foster?

A. The next contract was in May, 1910, with the Youngstown Iron & Steel Roofing Company. The price was $2.30. The Iron Age was quoting $2.40.

Q. What was the next one?

A. The next one was in September, 1910, with the American Sheet & Tin Plate Company.

Q. At what price?

A. $2.25.

Q. What was the Iron Age quoting that month?

A. $2.15.

Q. That was ten cents more than the Iron Age was quoting?

A. Well, you see the price was dropping so rapidly, so close together, it is pretty difficult to tell.

Q. The Iron Age was quoting at that time less than the contract price, was it not?

A. Yes.

Q. What was the next contract you made?

A. The next contract was with the Youngstown Iron & Steel Roofing Company, in October, 1910. The price was $2.10. The Iron Age was quoting $2.20.

Q. Now I call your attention to this cut of 1911, about which Mr. Colton asked you. Will you tell us what contracts you made in 1911? I think you have given us all for 1910, have you not?

A. I have.

Q. Now tell us what contracts you made in 1911, in what months, with what companies, at what price, and what the Iron Age was quoting at the time.

A. With the Youngstown Iron & Steel Company,—which was formerly the Youngstown Iron & Steel Roofing Company; they changed their name about that time—in June, 1911, we made a contract at $2.10. That was the price quoted in the Iron Age. In July we made a contract with the American Sheet & Tin Plate Company. My recollection is that those were really monthly purchases, rather than contracts, because the market was going down; the short lines indicate small purchases, and the long lines indicate larger purchases, you see. We made a purchase from the American Sheet & Tin Plate Company in July, at $2.05.

Q. What was the Iron Age quoting then?

A. The Iron Age was quoting then $1.95, apparently. There was a period there when the Iron Age was quoting lower than you could buy for.

Q. Did you buy in monthly lots through that year, small lots?

A. Until we got down to October, when we placed a contract.

Q. With what company and at what price?

A. The American Sheet & Tin Plate Company, at $1.80.

Q. Was that the price then being quoted by the Iron Age?

A. That is about the price; yes, sir.

Q. Did you make any further purchases in that year?

A. Not from the American Sheet & Tin Plate Company.

Q. From other companies?

A. Yes, sir.

Q. From what others?

A. From the Youngstown Sheet & Tube Company, the Brier Hill Steel Company and the Youngstown Iron & Steel Company.

Q. Tell us about the contract with the Youngstown Sheet & Tube Company. That was made in December, 1911, was it?

A. Yes, sir.

Q. At what price?

A. $1.80.

Q. What was the Iron Age quoting then?

A. $1.85.

Q. How about your contract with the Brier Hill Steel Company; in what month was that made?

A. In March.

Q. 1912?

A. March, 1912.

Q. At what price?

A. $1.75.

Q. What was the Iron Age quoting then?

A. $1.80.

Q. In that same month did you also make a contract with the Youngstown Iron & Steel Company?

A. We did.

Q. At what price?

A. $1.75.

MR. REED: That is all.

RECROSS EXAMINATION

By Mr. Colton:

Q. This memorandum that you have been using is not any chart made by the Iron Age itself, is it?

A. No, sir.

Q. This chart does not show the days, does it?

A. No, sir.

Q. It does not show prices for different days?

A. No, sir; only for the months.

Q. It shows the average prices for the months?

A. Well, I don't know what you mean by "average prices."

Q. Do you know what it does show?

A. Certainly I do.

Q. Does it show the average prices for the months, or does it show the daily prices, or what does it show?

A. It shows first the Iron Age quotations, and second it shows the actual prices at which we purchased.

Q. Does it show the Iron Age quotation as a whole month, or as for the particular day on which you made your purchase?

A. The Iron Age issues a special edition each year showing the monthly fluctuations.

Q. Well, now, is this monthly fluctuation the average price that the Iron Age gets out for the entire month, or is it the two extremes of prices for the entire month?

A. Well, for instance, the Iron Age quotes sheets to-day at $1.90, say, base Pittsburgh. I do not know what they are quoting, but we will say $1.90, and I expect when they issue their charts at the end of the year they will show the average price during the month, which is generally around that figure.

(The question was repeated by the stenographer.)

The Witness: I would really have to guess at that; I do not know what the Iron Age custom is.

By Mr. Colton:

Q. On the particular dates that you made these contracts you do not know what price the Iron Age was quoting on those particular dates, do you, and you do not know whether these

lines you have been using to trace your price from represented average prices per month or not, do you? The average prices as given in the Iron Age, whether they represent prices as given in the Iron Age?

A. I do not. Whatever the custom of the Iron Age is is what prevails.

Q. Don't you know that the Iron Age quotes weekly prices?

A. Yes.

Q. And don't you know that the prices sometimes change during the month?

A. I certainly do.

Q. Did you prepare this memorandum here yourself?

A. No, sir; I had a girl prepare it.

MR. COLTON: I object to the memorandum because the witness did not prepare it, and I object to all the evidence given on it as immaterial, as showing that there is no basis for comparing the two sets of prices; and as secondary.

By MR. COLTON:

Q. There is nothing on this chart that you have been using that shows you daily prices?

A. No, sir.

Q. There is nothing on this chart which would show you as close as a week to the price, is there?

A. No, sir.

GUSTAVE C. KUNOW

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. 243 Virginia Avenue, Jersey City.

Q. What is your occupation?

A. Railroad clerk.

Q. With what road?

A. The Lehigh Valley.

Q. How long have you been a clerk with the Lehigh Valley?

A. Twenty-seven years.

Q. In whose office are you employed?

A. Mr. Blendinger's office.

Q. Is that in the purchasing department of the road?

A. Yes.

Q. Under the general direction of Mr. Harry S. Montgomery?

A. Yes.

Q. You know Mr. Montgomery, do you?

A. Yes.

Q. On any day of November of this year, did Mr. Montgomery ask you to prepare any list of purchases of the Lehigh Valley Railroad Company?

A. Yes, sir.

Q. Showing purchases for 1911, 1912 and 1913?

A. Yes.

Q. And the companies from whom the purchases were made?

A. Yes.

Q. Did you prepare such a list?

A. Yes; together with another clerk.

Q. Who was the clerk?

A. Mr. Hamblin.

Q. I show you Defendants' Exhibit 145 and ask you if that is the statement which you and Mr. Hamblin together prepared for Mr. Montgomery?

A. Yes; this is the statement.

Q. From what data did you prepare that statement?

A. We have in our office a copy of all the orders that are issued by our company for material, and the clerk employed for that purpose makes on the back of those orders a record of the invoices as they come in. Part of this statement was prepared from those records; the other part, such as rails, for instance, was prepared from the quantity ordered during the years that are shown on here.

Q. Wherever possible, did you give the invoice tonnages?

A. Yes.

Q. And where they were not available you give the order tonnages?

A. Yes, and in some small cases we calculated the weight from books issued by various steel concerns.

Q. That is to say, in some cases the invoices or orders showed only the number of articles furnished, did they?

A. In some cases the orders had been placed and no invoices yet received for the material; such orders would probably call for so many hundred bars of material, and it was necessary for us to strike an average length of such bars and procure the weight per foot, and calculate the weight on that basis. That was done in a small percentage of cases.

Q. That was done where you had no invoices showing the weight?

A. Yes.

Q. And where your order only specified the number of pieces or the number of feet as the case might be?

A. Exactly.

Q. And there you had to make a calculation to get the weight?

A. Yes.

Q. So as to reduce the whole statement to a common basis of weight?

A. Yes.

Q. Now, is Defendants' Exhibit 145 a correct statement from those original invoices and orders, made in the way you have described.

A. According to the best of my knowledge, it is.

Q. How far does your knowledge go? Did you endeavor to check it up?

A. Yes; I proved all the extensions, but of course to err is human; a man may make a mistake.

Q. But you are not conscious of having made any mistakes in this?

A. No; I have gone over all the extensions and additions twice.

Q. You checked it twice?

A. Yes.

Q. How many original documents was it necessary to consult in order to prepare this statement? That is, would the original orders and invoices themselves make any considerable pile of paper?

A. Oh, they would.

Q. Can you give us any idea of the number?

A. Baskets full.

Q. What share in the preparation of this did Mr. Hamblin have?

A. Mr. Hamblin drew off the statement pertaining to light sheet steel, steel billets and part of the bar steel.

Q. Did you do the balance?

A. The rest I did.

Q. Did you check up Mr. Hamblin's work?

A. I did not, not his additions.

Q. You are responsible for all the additions except in those items that you have just mentioned?

A. Yes, sir.

MR. REED: Cross examine, Judge.

MR. COLTON: Did you offer this in evidence.

MR. REED: I have not yet, but I am going to. I am going to prove it first and then offer it.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Kunow, when did you begin to prepare this statement?

A. I know it was on a Saturday, but I do not know the exact date. I do not know whether it was two weeks ago or three.

Q. It was on a Saturday two or three weeks ago, was it?

A. Yes, sir; something like that.

Q. What part of it did you begin then to work upon?

A. Rail, the last sheet, I think you will find it.

Q. Have you any recollection about the tonnage of rails

that you bought from the various companies, independently of these figures set out on these sheets?

A. No, sir.

Q. Did you do all of the rail part that appears here yourself?

A. Yes, sir.

Q. Were you working at it by yourself or with somebody assisting you?

A. No, sir; no one assisted me.

Q. What did you take as the basis for getting these aggregates that appear in this sheet which refers to rails?

A. We had, for instance, an order in our box, calling for 1,500 tons of rails placed with a certain company, and we had another order for 1,500 tons more; we added the two together, that made 3,000 tons. I cannot repeat any of those figures or names for the particular years that you have down there, because I did not commit them to memory.

Q. That is to say you had orders in a box?

A. Yes, sir.

Q. And those orders would show the companies on which you had them?

A. Yes, sir.

Q. And you would take those orders and add them together and add other orders that you had there in that way to get the aggregate shown on this sheet?

A. Yes, sir.

Q. Now, what kind of a place were those orders kept in?

A. They were kept in regular filing cases. I do the filing myself.

Q. How long have you been with this company?

A. Twenty-six or twenty-seven years.

Q. Have you been keeping the files that long?

A. No, sir.

Q. How long have you been keeping the files?

A. For the past eight years.

Q. Let us go back, then, to 1905.

A. Yes.

Q. Who kept the files back of that?

A. A gentleman by the name of Thomas A. Leonard.

Q. Were all of these orders such as you have described for all of these years kept together?

A. No, sir. We have in our office the records back to 1908 complete.

Q. How long does your company keep its records of that character?

A. The order records are in existence back to 1900.

Q. From 1900 to 1907 inclusive where are orders of this character kept?

A. They are stored in the Packerton storehouse, Packerton, Pennsylvania.

Q. You have a large quantity of papers of that character stored there?

A. Yes, sir.

Q. And you keep all those orders back to 1900?

A. Yes, sir.

Q. You did not have anything to do with those orders prior to 1908?

A. Oh, I did in a way.

Q. What kind of a way?

A. We referred to them occasionally,——

Q. But I mean to say—had you finished?

A. Yes, sir.

Q. I mean to say you had nothing to do with the filing or keeping of orders prior to that time?

A. Oh, yes, indeed. Those records that are now at Packerton were at one time in our office, and when they were there, even though they ranged back to prior to 1908, I had the keeping of those records.

Q. I understood you to say a Mr. Leonard filed them back of 1908?

A. Yes; he filed them, but I referred to them.

Q. You referred to them, but he filed them?

A. Yes, sir.

Q. He was responsible, then, for filing the orders and for the correctness of the papers filed, was he?

A. He was until his employment with the Lehigh Valley Railroad Company ceased.

Q. When did that cease?

A. About eight years ago.

Q. Then, as a matter of fact, prior to eight years ago, so far as the filing of those particular orders was concerned, and the responsibility for filing the proper papers, that devolved on him and not on you?

A. Yes, sir.

Q. How far back in this matter of steel orders do you go?

A. Steel rail?

Q. Yes.

A. I think from 1906 on I have in my desk a statement which at one time was prepared from these order records to which I referred, giving the quantity of the tonnage that we ordered, and my statement that you have in hand there was copied from that record.

Q. From that statement?

A. From that statement.

Q. Now, who made that statement?

A. I did.

Q. How far does that go?

A. I think 1906, beginning with 1906.

Q. Down to the present time?

A. Yes, sir; from 1906 backward Mr. Montgomery procured his figures from the engineer of the maintenance of way department, who has the same record.

Q. That is to say, then, that this paper, back of 1906, that you say was prepared by you, was prepared on figures that Mr. Montgomery furnished you, which he got from somebody else?

A. No; not exactly. Mr. Montgomery put the figures down himself on a memorandum that he had previously prepared showing the figures from 1906 on. He provided the figures.

Q. Then, Mr. Montgomery, back of 1906, furnished you figures which he got from somebody else?

A. Yes.

Q. And on those figures you made this statement as to rails, back of the year 1906?

A. Yes, sir.

Q. And that is the basis on which you made it?

A. Yes, sir.

Q. Coming back to this paper on rails, from 1906 down to 1912, have you got those file orders for those years inclusive —the original orders?

A. We have only at hand here in New York from 1908 on, although——

Q. How about for 1907?

A. Those orders are at Packerton, Pennsylvania. I have in my desk, however, a statement which shows the quantity which we ordered, and which statement was taken from those orders, and which I myself made up.

Q. When did you make that up?

A. From year to year and from month to month, as the orders were sent out.

Q. This statement covers what years?

A. From 1906 on.

Q. And that, you say, was made up from the orders which are not here?

A. Yes, sir; part of it.

Q. Part of it?

A. Yes.

Q. I mean, for the year 1907?

A. For 1907 the orders are at Packerton.

Q. So you made that statement, then, the basis, did you?

A. Yes.

Q. And for how many years did you make it the basis of the aggregate figures you have got here

A. I have a statement in my desk running from 1906 up to the present time, probably not including 1913. Those years are in there, I suppose. Does that answer your question?

Q. Yes; that answers that question. What does that statement show?

A. That shows the number of tons of rail ordered from each company, the date under which it was ordered, and it also shows the invoice weight, where invoices were received.

Q. And the original papers are in the possession of your company from which that statement was made?

A. Yes, sir.

Q. What other parts of this paper did you make up yourself?

A. Axles, for instance.

Q. Car axles?

A. Yes, sir.

Q. From what did you make that up?

A. From the original orders. That is, from the orders that are on file in our office.

Q. And you have them in your office?

A. Yes, sir.

Q. How many orders would there be, covering your purchases for 1911, 1912 and 1913?

A. At a rough guess, I should say about 300 to 500; probably not that many.

Q. For car axles?

A. Yes; probably not that many.

Q. These figures here that you have testified about are the aggregates which are made up from these orders?

A. No; they are the exact amounts. The axles are shown there by number, I think. You will see from the heading.

Q. You say the axles are shown by number?

MR. COLTON: The number of axles.

THE WITNESS: Yes; they don't show the tonnage, I think.

By MR. DICKINSON:

Q. For instance, these figures here show the number of axles, and not the tonnage?

A. Yes.

Q. But these are aggregate figures, are they not?

A. No, sir; they are actual figures.

Q. What do you understand "aggregate figures" to mean?

A. If we order 25 axles and receive 25, I have put 25 in the statement. I think that is actual, not aggregate.

Q. And you have only put here, have you, the orders as each order showed the amount; the number you ordered?

A. The quantity; yes, sir.

Q. The number of axles?

A. Yes, sir.

Q. And that is the way you have made up this paper?

A. Yes, sir.

Q. Just tell me when you ever ordered 88—what is this, tons?

MR. COLTON: Tons.

THE WITNESS: Is that tons? Then I beg your pardon. My testimony on that point was wrong, then. I had thought we had only put down the number of axles. If it says "tons" on the statement, it means tons.

By MR. DICKINSON:

Q. You may have been mistaken about some of your testimony?

A. I was mistaken about the number. It should read "tons."

Q. Net or gross tons?

A. It says on the statement just what it is.

Q. What does it say on the statement?

A. I don't know; I did not commit that statement to memory.

Q. Take the number of tons: Did you put down here the number of tons ordered from any one company under each year?

A. Yes, practically. The invoices do not quote tons; they quote pounds, but I calculated the tons from the number of pounds.

Q. So, this is partly a calculation, and not an exact reproduction of any numbers shown by your orders?

A. It is all a calculation. You have to do calculation to get out a statement. You cannot get a statement unless you make calculations.

Q. Didn't you say that your orders showed the number of axles you ordered?

A. They do show the number of axles, yes.

Q. It does not take any calculation other than copying

from your orders to show the number of axles ordered, does it?

A. You have to add them up.

Q. Well, are the figures here the result of adding up?

A. Yes.

Q. Or separate items for each?

A. They are the result of adding up, from order to order.

Q. You would not call that an aggregate, then?

A. I call that actual, if it is correct.

Q. Do you know what aggregate means?

A. No, sir.

Q. What I mean by that is, I asked you that question as to whether or not those figures under car axles opposite each company for those various years show the sum of given items bought at different times from these various companies?

A. Yes; I understand that.

Q. And these figures as shown here are not on any one paper that you have in your possesson?

A. No, sir.

Q. But they are the result of what you say these papers show when you put your mathematical calculation to it?

A. Yes.

Q. Now, independently of these figures here as to car axles, have you any idea of the number of tons you bought from any one of these companies in any one year?

A. No, I would have to refer to my statement about that.

Q. You have no memory on that?

A. No.

Q. You are simply relying on this?

A. Yes.

Q. What other part of this whole paper did you prepare?

A. Well, the greater part of the bar steel.

Q. What part did you have to do in that, and what part did Mr. Montgomery have to do in that?

A. Nothing; Mr. Montgomery had nothing to do with it. I made it up myself.

Q. The bar steel part you made up yourself?

A. Yes, sir; Mr. Hamblin did a small portion of it.

Q. What part of it did he do?

A. Well, in order to tell you that I would have to go back to the office and get my memorandum and find out exactly what he did do.

Q. Tell me generally what he did.

A. For instance, when we started this statement Mr. Hamblin, I think, started with steel billets and bars. He took out a certain year and worked at that, and while he worked at that I worked at something else.

Q. Which year did he work at?

A. I could not tell you; not unless I refer back to the original memoranda which he made.

Q. Do you know whether he worked at more than one of these years?

A. No; I could not tell you.

Q. Well, what kind of work did he do; how did he do it?

A. He did the same kind of work. You had better ask him about that.

Q. I haven't got him here.

MR. REED: You are going to have him in about a minute; he is sitting over there waiting to be called.

MR. DICKINSON: I will climb that fence when I come to it. I am with this witness now.

THE WITNESS: I did not watch him.

By MR. DICKINSON:

Q. You did not watch him?

A. No, sir.

Q. Well, you do not know how he proceeded?

A. No.

Q. You do not know which of those years he covered?

A. I could tell that if I could refer to my original memoranda.

Q. I mean now.

A. I do not know; no, sir.

Q. You do not know what basis he took, or what sources he took?

A. Yes; I know that.

Q. You did not work with him?

A. I did not work with him, but we consulted in some way about it.

Q. Then you know what he told you about it?

A. I saw him take the orders out of the shelves.

Q. You saw him take the papers out?

A. Yes.

Q. And he took some papers out and did some work, and you do not know what years they were for?

A. No, sir.

Q. Did he reach any aggregate figures?

A. Yes.

Q. Did he give them to you?

A. Yes.

Q. Did you use them in this paper?

A. Yes.

Q. But you do not know which year it was?

A. Not from memory; no, sir.

Q. How many years have you included in here?

A. Three years in the statement, except the trial.

Q. What else did you work on here?

A. Everything else except part of the bar steel; sheet steel and billets.

Q. Did you do all the work on all of the others with that exception?

A. I checked it all, yes.

Q. How did you check it? Tell me what you did.

A. We had some clerks helping us in the addition, but feeling that their work was not quite up to date, I checked it over.

Q. Tell me what you checked? Did you check this paper?

A. I checked this paper from the original pencil memorandum, yes.

Q. You checked these aggregates here that appear on this paper?

A. I added; made all the additions yes.

Q. You made all the additions and then checked this from the pencil memoranda?

A. Yes.

Q. What did these clerks do?

A. Simply helped in the adding.

Q. Simply helped in the adding?

A. Yes, sir.

Q. Well, now, in preparing or checking this paper, all except what you have excluded, just state exactly how you proceeded, how you did the work?

A. We took the orders.

Q. Do not say "we"; I am asking you what you did.

A. I did. I took the orders out of the box and saw how many pounds they called for and put it down on a piece of paper, and the name of the firm from which it was bought. Then we——

Q. Don't say we.

A. I beg your pardon.

Q. Do not consider yourself a plural any longer, and I will not have to stop you so much.

A. Then I took the next order and added it to the memorandum, until all the orders for each particular item were finished; then I added it up.

Q. Now, these orders you have, have you?

A. Yes; they are in our office, part of them.

Q. Well, now, did that apply to all of this paper here, except the parts that you have made some reservation about?

A. Yes.

Q. You say part of these orders are in your office; which part are in the office?

A. From 1908 to 1913 the orders are in our office.

Q. This paper, with the exception of rails only covers 1911 to 1913, inclusive; they are all in your office?

A. Yes; all except the rail.

Q. Now, you are confident, are you, that you have all those orders except those on rails?

A. Yes.

Q. Wait a moment; how far back?

A. What do you mean?

Q. What I mean to say is that the orders upon which this

paper is based, with the exception of rails, how far back have you got such orders now in the possession of your company?

A. We have them all.

Q. How far back; how many years back?

A. There are only three years on the statement. We have all of those three years.

Q. Back of that how far back have you?

A. To 1908, they are right here in New York.

Q. Are these orders that you speak of orders made by your company or are they invoices from other companies or what? Just describe this more particularly, now, upon which you have made this paper.

A. When an order is placed by our company, an order clerk writes them out on the machine, making two copies; one copy is sent to the party from whom we purchase, and the other copy stays in our office. When the invoice comes in, a clerk records on the copy which is in our possession, the date, amount, quantity and price which is charged on the invoice, and from that record that statement was made.

Q. You did not make any of those records yourself?

A. Some of them I might have made, but very few.

Q. Are you a typewriter?

A. Oh, the orders, you mean?

Q. Yes; that is what I mean.

A. No, I did not make those.

Q. And that work was done by somebody else?

A. Yes.

Q. And you have just some typewritten papers which are in your office, and it is upon those papers that you have made this statement?

A. Yes, sir.

Q. And you had nothing to do with the preparation of those typewritten papers?

A. No, sir.

Mr. Dickinson: I object to all the testimony of this witness based upon Defendants' Exhibit 145, on the ground that it is secondary evidence and incompetent, and that the

papers upon which the witness states that he did that part of the work which he says he did were prepared by others and not by himself.

REDIRECT EXAMINATION

By Mr. Reed:

Q. When you said that you had the records for several years back, the same kind as those for recent years, from which you made up this statement, Exhibit 145, you were speaking of these copies of orders and invoices?

A. Only copies of orders.

Q. With memoranda from invoices on them?

A. Yes, sir.

Q. You did not mean to testify one way or the other with regard to tabulated quotation sheets, did you; that is, tabulations of different quotations that came in?

A. No, sir.

Q. You were not discussing that?

A. No, sir.

WILLIAM B. HAMBLIN

was called as a witness on behalf of the defendants and being first duly sworn testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Valley Cottage, New York.

Q. What is your occupation?

A. Clerk, Lehigh Valley Railroad Company.

Q. How long have you been a clerk there?

A. Nine years and three-quarters.

Q. Are you in the purchasing department?

A. I am.

Q. At the request of Mr. Harry S. Montgomery did you

participate in the preparation of this Defendants' Exhibit 145, which I now lay before you?

A. I did.

Q. What part of that statement was prepared by you, Mr. Hamblin?

A. I made up the statement relating to billets, light sheets, tank, boiler and fire box, and part of the bar steel.

Q. From what source or sources did you obtain the information which you put on that statement?

A. From the record of the invoices as shown on the back of the duplicate copies of the orders held in our office.

Q. Is that statement, Exhibit 145, a correct statement of the information given on those order sheets?

A. To the best of my knowledge and belief, it is.

MR. DICKINSON: You are calling for the whole thing.

MR. REED: No.

MR. DICKINSON: That is what your question says.

MR. REED: I know it does; I was going to fix it with the next question.

By MR. REED:

Q. I am asking you only for that part of the statement which you yourself prepared.

A. That is all I am capable of answering—for the part that I had.

Q. Now, as we are all agreed on that point, will you tell us whether the statement, in so far as you have prepared it, is correct, to the best of your knowledge and belief?

A. To the best of my knowledge and belief it is correct.

Q. And have you checked it up to confirm that belief?

A. No, sir; I have not. In order for me to check it up would take about three days.

Q. Did you check up your additions at the time?

A. I did not make any additions, with the exception of billets.

Q. Were those additions correct?

A. They were.

Q. You made them carefully, did you?

A. I did.

CROSS EXAMINATION

By Mr. Dickinson:

Q. The billets are the only ones that you gave the aggregate figures for shown here?

A. Those are the only ones; yes, sir.

Q. Now, as to the light sheets, what did you do about that?

A. I took the record of the light sheets, the billed weights in every case.

Q. And you took it from duplicate copies of orders that had been sent out, which were typewritten copies made by clerks and filed, and upon which had been entered by clerks figures which purported to come from the invoices?

A. Yes.

Q. You know nothing about the correctness of those, but you just took the papers as you found them?

A. That is true.

Q. Now, are light sheets the same character as tank sheets?

A. No, sir; they are not.

Q. How about boiler sheets are they the same character as tank sheets?

A. No, sir; they are not.

Q. What is "fire box"?

A. Fire box steel, as I understand it, is a steel that they use in making fire boxes.

Q. Did they show separate items for light sheets, tank, boiler and fire box steel; did all the orders include all those items?

A. Generally the orders go out calling for but one item, either boiler, tank, fire box or light sheets.

Q. Now, in this paper here, you have thrown them all together, have you?

A. We have thrown them all together.

Q. And you do not know what proportion there were of each?

A. No, I cannot tell you that. I would say, though, that the largest percentage of it is tank steel.

Q. That is just a mere rough estimate on your part?

A. No, it is not; it is pretty near definite knowledge of it.

Q. Well, you mean of the whole?

A. Of the whole of that statement which is headed "Tank, boiler and fire box," the majority of the figures shown there represent tank steel.

Q. But this includes not only those three items, but light sheets also?

A. Yes.

Q. Including that?

A. Including that also.

Q. Do you mean to say, then, of the aggregate figures for each year purporting to show what was bought from each company, that more than 50 per cent. of each one of those separate items would be tank?

A. I do; yes, sir.

Q. You do not know what the percentage of the others would be?

A. No, I do not.

Q. And you could not, I suppose, offhand, without looking at this paper, say what percentage there was for tank for any one of these years?

A. I could not tell you what the exact figures were for any one year, but I do know that the big majority of the orders represented in that heading is for tank steel.

Q. You say that you only added up about billets?

A. That is all.

Q. What part of this work did you do on light sheets, boiler and fire box, and what did somebody else do that resulted in these aggregate figures here?

A. I took the billed weight from the duplicate copies of the orders, and set it down on a blank, each concern by itself and year by year. I turned them over to Mr. Kunow, and he added them, or he caused them to be added in the offices, but he verified the adding.

Q. He verified the adding?

A. Yes.

Q. And you did not do any of that adding?

A. Not on that; no, sir.

Q. All you know is that you furnished him certain data, and that is all you had to do with it?

A. Yes.

Q. And that data is not here, and does not appear on this paper?

A. No, sir.

MR. DICKINON: That is all.

MR. REED: That is all.

We now offer in evidence Defendants' Exhibit No. 145.

MR. DICKINSON: This is objected to because it is incompetent, secondary evidence, not properly proven so as to make it admissible.

(The statement referred to was thereupon marked "Defendants' Exhibit (Montgomery) No. 145, December 15, 1913," and will be found in the volume of Defendants' Exhibits.)

(Whereupon an adjournment was taken until to-morrow, Tuesday, December 16, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND THIRTY-FIRST DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Tuesday, December 16, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. BOLLING and MR. REED.

EDWARD F. GRIMM

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Pittsburgh.

Q. What is your occupation?

A. I am with Thomas C. Jenkins' wholesale grocery.

Q. What part of the business of Thomas C. Jenkins Company have you charge of?

A. General matters, and buying.

Q. Do you have charge of all the buying of that company?

A. Not all.

Q. To the buying of what products do you confine your attention?

A. Would you like to have me enumerate them all?

Q. Just give them to us in general words, if you can.

A. Nails and wire, cereals and soaps, and other things of that nature.

Q. Could you give us in a general way some idea of the quantity of your aggregate purchases each year?

MR. DICKINSON: How do you mean?

MR. REED: I mean all kinds, not only nails and wire, but soap and all other products.

THE WITNESS: Perhaps two and a half million dollars; something of that sort.

By MR. REED:

Q. It is a very large business, is it not?

A. Yes, sir; that is, roughly, of course. I could not tell that offhand.

Q. Do you buy wire nails?

A. Yes, sir.

Q. Do you buy plain wire?

A. Yes, sir.

Q. Barbed wire?

A. Yes, sir.

Q. Poultry netting?

A. Yes, sir.

Q. How long have you had charge of the purchases of those wire products?

A. Between five and six years.

Q. Can you tell us approximately the quantity of wire of the different kinds, and of nails, that you buy annually?

A. I should estimate our purchases of both nails and wire at about $70,000 to $75,000, and I should think nails—that would be 60 per cent. of that amount; that is, roughly; I have not figured that out.

Q. That is just approximately?

A. That is just approximately; I could not say.

Q. And for what purpose do you buy this wire and wire products; for the purpose of resale or use?

A. Resale entirely.

Q. In what territory is your business principally conducted, Mr. Grimm?

A. In the western part of the state.

Q. Western Pennsylvania?

A. Western Pennsylvania; yes. We go a little bit into Ohio.

Q. Do you buy your nails and wire on annual contracts or do you buy in lots from time to time?

A. In lots from time to time.

Q. And before you place your orders do you get quotations from the different manufacturers of these products?

A. From various people.

Q. Can you give us the names of some from whom you get quotations?

A. The Pittsburgh Steel Company; Youngstown Sheet & Tube Company; American Steel & Wire Company, and Jones & Laughlin.

Q. All of those companies have mills in your neighborhood, have they?

A. Yes.

Q. In your general neighborhood?

A. Yes.

Q. Do the prices that are quoted to you vary or are they uniform?

A. They vary.

Q. How long has that been so, Mr. Grimm?

A. During my experience.

Q. Is there active competition for your business?

A. Very.

Q. In wire and wire products?

A. Yes, sir.

Q. As compared with the competition among the manufacturers of soap and cereals and the other things that you buy, is there any difference between the competition in those things and the competition that you find in steel products?

A. Practically the same; they are all keen for business.

Q. They all send their salesmen in, do they?

A. Yes, sir.

Q. And try to get business by shading prices?

A. They do that.

Q. You buy on a competitive basis, I presume?

A. Yes, sir.

Q. That is, you buy from the lowest bidder?

A. We certainly do.

Q. Do you buy any poultry netting?

A. Yes, sir.

Q. About what quantity annually?

A. I should say, roughly, four or five cars.

Q. Could you give us any idea of the number of rolls that come in a car?

MR. DICKINSON: That would depend on the length.

THE WITNESS: It would depend on the size. I should say about 1,200, though; something like that. That is, roughly.

By MR. REED:

Q. All I want is a rough approximation.

A. Yes; I don't know the exact detail.

Q. From what company have you bought most of your poultry netting?

A. The Wright Wire Company, of Worcester.

Q. Have you had quotations from other companies?

A. Yes, sir.

Q. Why have you given the bulk of your business to Wright?

A. As a matter of price.

Q. Have they made any special drive for your business?

A. They have.

Q. Do the quotations on poultry netting vary in the same way as those on the other products you have mentioned?

A. Yes, sir.

Q. I forgot to ask you, Mr. Grimm, what part of your purchases of wire nails and plain and barbed wire, generally speaking, you have given to the American Steel & Wire Company.

A. They get about 30 per cent. of it.

Q. The remaining 70 per cent. is distributed among these other wire makers?

A. Yes, sir; principally the Pittsburgh Steel Company.

Q. Does the Pittsburgh Steel Company get as much as 30 per cent.?

A. More than that.

Q. More than 30 per cent.?

A. Yes, sir.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Have you bought any of your wire nails by written contract?

A. Yes.

Q. Have you bought any this year by written contract?

A. Yes, sir.

Q. How many written contracts have you made this year for wire or wire nails, if they are separate?

A. I would say about three, although I am not sure.

Q. Were they for wire and nails together or separately?

A. Together.

Q. When did you make the first contract for 1913?

A. I could not tell you.

Q. When did you make the second?

A. I could not tell you.

Q. When did you make the third?

A. I could not tell you.

Q. With whom did you make the first?

A. The Pittsburgh Steel Company.

Q. You do not know what part of the year you made that?

A. No; I could not say. We have a number of contracts.

Q. Do you know whether it was the first quarter or the second quarter or the third quarter or the fourth quarter?

A. I should say it was in the first quarter.

Q. But that is a guess, is it?

A. Yes.

Q. Now, your second contract?

A. About the same time.

Q. You think that is about the same time, whichever quarter that was?

A. Yes, sir.

Q. But you cannot state which one it was?

A. No, sir.

Q. Who was the second one made with?

A. The American Steel & Wire Company.

Q. Now, the third; who was that made with?

A. Pittsburgh Steel Company.

Q. The same as the first?

A. Yes, sir.

Q. When was that made?

A. That was made last month.

Q. Now, under this first contract with the Pittsburgh Steel Company, what tonnage of wire nails were included?

A. I could not say positively.

Q. Under the second one, with the American Steel & Wire Company; what tonnage?

A. I could not say.

Q. What tonnage have you got altogether this year in wire nails under all three of those contracts?

A. Our yearly purchases amount to about $70,000 or $75,000; I do not know the exact tonnage.

Q. You say, generally speaking, it is about $75,000 a year, but you do not know how many deliveries you contracted for this year in steel and wire?

A. No.

Q. What is the approximate tonnage under that first contract with the Pittsburgh Company in steel and wire?

A. I cannot recall the tonnage on that contract.

Q. In dollars what was it?

A. I don't remember that either.

Q. What was the approximate tonnage of the second contract, which was with the American Steel & Wire Company?

A. I cannot say.

Q. In dollars?

A. I cannot say.

Q. And the same as to the third?

A. I cannot recall that.

Q. Now, when you made this contract with the Pittsburgh Company some time in 1913, with whom did you negotiate that?

A. The name of the representative?

Q. Yes.

A. His name is Hazen.

Q. What are his initials?

A. I don't know.

Q. Did he come to you or did you go to him, or how was it brought about?

A. He comes to the office.

Q. I mean on this occasion did you negotiate it with him?

A. Yes.

Q. Do you know whether he came to the office?

A. I imagine he did; he usually does, but I would not say positively.

Q. You do not know whether it was done by personal interview, or by writing, or how?

A. Personal interview or by 'phone, one or the other.

Q. But you do not know which?

A. No, I do not.

Q. What quotation did he give you on that, and when was his first quotation given?

A. I could not say.

Q. What quotations did others give you on that, and when were they, and who were they?

A. I could not say.

Q. Now in regard to the second contract with the American Steel & Wire Company, would your answers be the same to the same questions?

A. Yes, because the business was done through Mr. Hirsch.

Q. That is the individual?

A. Yes.

Q. But I mean in respect to quotations, and the time and what they were?

A. They would be the same.

Q. What poultry netting have you bought this year?

A. I should say four or five cars.

Q. How did you buy it; all in one lot or in several lots?

A. In one lot, practically.

Q. From whom did you buy it?

A. The Wright Wire Company.

Q. When did you buy it?

A. Now, I do not think that would be this year. We usually buy in this month for next year, and I imagine that was the way it was last year.

Q. So far as your imagination goes, you think this contract was made last year?

A. Yes; I had one this year, but have not specified it yet.

Q. Leaving out imagination, can you state from memory when the contract for 1913 was made?

A. Not positively.

Q. You could not give me the month?

A. No.

Q. And you cannot state positively whether it was made in the latter part of 1912 or whether it was made in 1913?

A. Not positively, but I think the latter part of 1912.

Q. Did that cover substantially all your requirements for 1913?

A. Practically; it is supposed to cover all we need.

Q. What was the tonnage?

A. I suppose the car would hold 40,000 pounds; we got about four or five cars.

Q. With whom did you negotiate that purchase?

A. Mr. Collins, whose office is in Chicago.

Q. Was that done personally between you and him?

A. Yes.

Q. Where?

A. At Pittsburgh.

Q. Did he come and see you?

A. At the office, yes.

Q. Did he make you a price before he came there or when he got there?

A. When he came, in this case.

Q. Did you close it then?

A. Yes.

Q. How long after he got there?

A. I guess it was within the day.

Q. Within the day?

A. I think so.

Q. So he came there without making any previous price, he made you a price that day, and you closed the arrangement on that day?

A. Yes.

Q. Did you notify him beforehand to come, or did he just come in the regular routine of business?

A. He advised me he was coming.

Q. He advised you that he was coming?

A. Yes, that he was coming.

Q. Had you contracted with him the year before?

A. Yes.

Q. And the year before that too?

A. For the past five or six years.

Q. For the past five or six years; you continued with him right along?

A. Yes.

Q. Did you ask bids, in contemplation of this purchase of four or five cars for 1913, from any other concern, and if so when, and when with relation to the time you made this purchase did you do that?

A. I made inquiry of Mr. Hirsch of the American Steel & Wire Company.

Q. In what month did you make inquiry of Mr. Hirsch?

A. Previous to giving the order to the other people; I do not know the month.

Q. You do not know how long it was previous, do you?

A. It would not be very long; I do not know how long.

Q. You do not know how long?

A. No, sir.

Q. Now take your contract for the year 1912 for poultry netting; when was that made?

A. I cannot remember those dates.

Q. And that was made with the Wright people too?

A. Yes.

Q. And for your estimated requirements?

A. Yes.

Q. You cannot give the month when you made it?

A. No.

Q. With whom did you negotiate that?

A. Mr. Collins.

Q. At your place of business?

A. At my place of business.

Q. Was that done in substantially the same way as the other was done?

A. Practically.

Q. Without my going over the questions, if there is any difference, state what it was.

A. No difference at all; we have been handling the business that way since I have been doing the buying of that product.

Q. Then that goes back five or six years?

A. Yes.

Q. Can you state back of 1910, the times, in contemplation of these purchases, that you made contracts, and who made bids, and what the bids were, and what the relation of those bids was to each other? Poultry netting—this is all about poultry netting.

A. No, sir.

Q. Could you state during that period how many of those bids were alike and how many were unlike, and what relation they had to each other?

A. You are speaking of poultry netting?

Q. Yes.

A. The people from whom we have been buying have been getting the business on account of the price proposition.

Q. That is not answering my question; I am asking you if you can state, in respect to any of those contracts, what the prices were, or the variation in prices, or how many of the bidders were alike and how many were unlike and which were alike and which were not alike for any of those periods?

A. We made inquiry of but two people.

Q. Only two people?

A. Yes.

Q. Throughout that whole time.

A. Yes.

Q. And those were the Wright people and the American Steel & Wire Company?

A. Yes. In fact, the American Steel & Wire Company have not been asked for prices except during the last two years, I should say.

Q. And before that you only got prices from the Wright people?

A. From the Wright Wire Company, yes.

Q. Now, take five years ago on your wire and nails, did you make a contract for your requirements, estimated, for the year?

A. No, sir.

Q. You bought that from time to time, did you?

A. From time to time, on contracts.

Q. Written contracts?

A. Yes.

Q. How many contracts did you make for the year 1908; do you know?

A. No, sir.

Q. Do you know whether it was one or a dozen?

A. No, sir.

Q. Could you approximate it?

A. No, sir.

Q. In that year do you know with whom they were made?

A. Yes.

Q. Just tell for the year 1908 with whom you made contracts.

A. The American Steel & Wire Company and the Pittsburgh Steel Company.

Q. Only two?

A. That is all.

Q. How many did you make with the American Steel & Wire Company?

A. I don't know.

Q. How many did you make with the Pittsburgh Steel Company?

A. I don't know.

Q. You do not know the various times in that year at which you made them?

A. No.

Q. At the time you made those contracts with the American Steel & Wire Company do you know what other bids you got and from whom they were?

A. I could not tell at this time.

Q. At the time you made the contract with the Pittsburgh Steel Company could you tell?

A. No.

Q. Nor their relation to each other?

A. Not that I know of.

MR. REED: He means the relation of the bids to one another; not the relation of the companies.

THE WITNESS: Oh! Pardon me.

By MR. DICKINSON:

Q. You did not understand me, did you?

A. No.

Q. I mean, can you tell the relation of those bids on any of those contracts to each other in 1908?

A. You mean the relation of prices?

Q. Yes.

A. No; I could not, now.

Q. Can you tell the relation of these bids to the then current quoted market price?

MR. REED: You mean of particular bids, Judge?

MR. DICKINSON: Any of them.

THE WITNESS: I cannot remember any bids or prices back in that time.

By MR. DICKINSON:

Q. Can you remember how many were alike and how many were different?

A. No, sir.

Q. Could you, for any year from 1908 down to the present time, excluding the year 1913?

A. I could say that they are different; but I do not know that I could give you the exact prices, and the difference between them.

Q. Take the year 1909. Who bid?

A. You will have to come later than that.

Q. Then you cannot make any statement as to how they differed, or how many were alike, or anything about that, in the year 1909, can you?

A. Except that I suppose they were different, the same as they are now. Conditions have not changed any.

Q. That is what you base it on— a supposition—is it, and not upon a recollection?

A. I cannot be positive in a statement that length of time back.

Q. Come down to 1910, then: can you give us any information about any purchase that you made during that year in nails or wire, and state who the bidders were on a particular purchase, how many bids you got, how many were alike and how many were unlike, and what their variations were, if any, from the then market price? If you can do that on any transaction, please state it.

A. Would you want the dates, and so forth, in a statement of that sort?

Q. If you can fix the particular transaction by some other feature than the date, which will identify a particular transaction, then I will not insist upon the date.

A. I could not do it in 1910. I could do it in the early part of 1913, this year. I don't remember those transactions away back.

Q. Back of that, then, you cannot answer that question?

A. I could not. We buy various things, and I do not pay particular attention to any one.

Q. For 1910 can you now, on wire and nails, state the various companies that you now know that you solicited bids from?

A. Principally the Pittsburgh Steel Company and the American Steel & Wire Company.

Q. There were a good many transactions where those were the only ones you solicited in 1910?

A. Not a good many.

Q. There were some?

A. Some.

Q. And you cannot tell what proportion of your purchases for that year were that way, can you?

A. No.

Q. How about 1909?

A. The same.

Q. How about 1908?

A. The same.

Q. How about 1911?

A. The same.

Q. How about 1912?

A. It would be different in 1912. Jones & Laughlin entered into the proposition at that time; I think it was about that time.

Q. Is that the only difference that you wish to mention?

A. The Youngstown Sheet & Tube. I believe those are the additions.

Q. What was the first year you began buying?

A. 1908.

Q. In that year what proportion of your purchases in wire and wire nails were from the American Steel & Wire Company?

A. I should say about 20 per cent. in that year, approximately.

Q. In 1909, what percentage from the American Steel & Wire Company?

A. That same percentage would be approximately correct until 1912.

Q. What was it then?

A. Then it was about 30.

Q. Have you never, during any of those years, gotten more than 30 per cent. from the American Steel & Wire Company?

A. I believe not; no, sir.

Q. Did you not state in your direct examination that generally you had gotten, throughout this period, 30 per cent. from the American Steel & Wire Company?

A. Not throughout the period.

Q. What were you referring to when you said generally 30 per cent.?

A. The year 1912 I was referring to.

Q. And only to the year 1912?

A. That was all, yes.

MR. REED: I think that was the way I asked the question as to the present situation.

MR. DICKINSON: Is that the way you asked the question?

MR. REED: That is my recollection.

THE WITNESS: I don't remember the question being asked for previous years.

MR. REED: No; I did not ask for previous years.

By MR. DICKINSON:

Q. Take the year 1908: what percentage did you get from the Pittsburgh Company of wire and nails?

A. Practically 80 per cent. I think they got the balance of the business.

Q. So that it was divided between those two, whatever it was, was it?

A. Yes; whatever it was.

Q. And for all those years?

A. Outside of the poultry netting.

Q. I am speaking, now, of wire and nails.

A. Poultry netting is wire.

Q. I am not including poultry netting in this, and you have not included poultry netting in your estimates, have you?

A. Yes, sir.

Q. You have?

A. In our estimate of purchases.

Q. But in your estimates of percentage, in the questions I have just asked you?

A. No; not in that.

Q. That is what I thought.

MR. DICKINSON: That is all.

JOHN P. PROVOST

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Provost, where do you live?

A. Pittsburgh.

Q. What is your occupation?

A. I am vice-president and secretary of the Union Electric Company of Pittsburgh.

Q. How long have you held that office?

A. I have been an officer of the company, not the same one; I have been treasurer since 1905. It was incorporated at that time.

Q. When were you elected vice president?

A. 1907, is my recollection of it.

Q. Are you familiar with the purchases that are being made by your company of wire and wire products at different times?

A. Yes.

Q. How long have you been familiar with the purchases?

A. They have been more or less under my direction, the president and myself, since I have been with the company.

Q. Since about 1905?

A. It is rather a long story, really, before that.

Q. That is far enough back.

A. Generally speaking, yes.

Q. It goes back to 1905, anyway, does it?

A. Generally speaking, yes.

Q. What kind of business does the Union Electric Company do?

A. Jobbers of electrical supplies.

Q. And it has been the same company, has it, since 1905?

A. Yes; except it took over another company in 1907.

Q. You took over another company in 1907, and you consolidated it with your other business?

A. Yes, sir.

Q. What kind of wire products does your company buy, Mr. Provost?

A. We buy bare copper wire, insulated wire, lamp cord, telephone wire and strand.

Q. You mean steel telephone wire?

A. Iron and steel are generally used.

Q. And steel strand?

A. Yes, sir.

Q. And all kinds of copper wire, both bare and insulated?

A. Yes.

Q. About how much in money do your annual purchases of wire and wire products come to at the present time?

A. I should say they would approximate $100,000 yearly.

Q. And what were they in 1905?

A. 1905?

Q. Approximately?

A. I should say half that amount.

Q. And has the growth been fairly regular and constant?

A. Yes.

Q. Let us take up the insulated wires first, the insulated copper wires: From what companies do you get quotations on insulated copper wire?

A. Ansonia Electrical Company; National India Rubber Company; Frick and Lindsey, they represent Roebling in Pittsburgh; Standard Underground Cable Company; and of course there are miscellaneous smaller companies that we get quotations from from time to time. Those are the main ones.

Q. Does the General Electric Company quote to you?

A. Yes, sir.

Q. Does the Indiana Steel & Wire Company ever quote to you?

A. Yes, sir.

Q. Does the American Steel & Wire Company ever quote to you?

A. Yes, sir.

Q. About what percentage of your insulated copper wire at present are you buying from the American Steel & Wire Company?

A. I should say approximately five per cent.

Q. Did you have any knowledge of the existence of what are known as the Jackson pools in insulated wire and bare copper wire?

A. I knew of them at the time; that is, I knew there were said to be such pools. I did not know actually, of course.

Q. It was generally known in the trade, was it?

A. It was generally known in the trade. That was five or six or seven years ago, you mean?

Q. Yes.

A. Yes, sir.

Q. You knew about them before the indictments were found in 1911, didn't you?

A. Oh, yes.

Q. Since those pools broke up——

MR. DICKINSON: He has not said that he knew anything about any indictments?

THE WITNESS: Oh, I read the papers. It came to me when he asked the question that the Jackson pools were closed five or six years ago, but I guess it is only about two.

By MR. REED:

Q. It is about two years ago, I believe, that the indictments were found?

A. Yes, sir.

Q. But the exact time when the pools were broken up you are not sure about?

A. I am not familiar with that, no.

Q. I want to confine your attention now to the condition since the pools were broken up, whenever it was.

MR. DICKINSON: Well, I object to that, because the witness has not shown that he knows when they were broken up.

THE WITNESS: I knew of the indictments.

MR. DICKINSON: You are not asked any question now.

MR. REED: Your objection is in, is it?

MR. DICKINSON: Yes, but I was telling the witness he need not answer when there is no question. Just answer questions.

By MR. REED:

Q. Let us take the present situation in the market on insulated copper wire and bare copper wire; is there competition for your business?

A. There is.

Q. Is it active or otherwise?

A. Well, I should say active.

Q. Do you ask quotations from different manufacturers before you place your contracts or give your orders?

A. Yes, sir.

Q. Do those quotations that you receive vary or are they uniform?

MR. DICKINSON: This and the two preceding questions are objected to as irrelevant.

THE WITNESS: They vary.

By MR. REED:

Q. How long has it been so, Mr. Provost?

A. Do you want me to tell you how far back?

Q. As far back as you remember that you have been getting varying quotations on those products.

A. As a matter of fact they have always varied.

Q. Even during the pool days?

A. Yes, sir.

Q. Have they varied more in recent years than they did in pool days, or less, or just the same?

A. Well, I should say that they have varied more perhaps in the last two years.

Q. About what percentage of your insulated wire and bare copper wire do you buy from the American Steel & Wire Company?

A. Well, as I said before, I think approximately five per cent.

Q. I did not remember that I had asked you that question. Now, coming to the steel strand, Mr. Provost, will you give us the names of some of the companies that quote to you on steel strand?

A. We formerly bought some from McComber & White Company of Chicago, and the Indiana Steel & Wire Company; that is all I can remember offhand, and the American Steel & Wire Company.

Q. Do you ask competitive quotations in the product before you place your order?

A. Yes, sir.

Q. Do the quotations that you get vary or are they uniform?

A. They vary.

Q. How long has that been so with steel strand, Mr. Provost?

A. I should say ten or twelve years.

Q. Is that the situation to-day?

A. Yes, sir.

Q. Can you give us any illustration of the way in which prices vary?

A. Oh, generally speaking, they vary from five to ten per cent.; that is, speaking of steel strand.

Q. How about this steel or iron telephone wire; do you buy that in large or small quantities?

A. Well, I presume we would be termed small buyers of telephone wire.

Q. Can you give us any idea of the mileage that you buy?

A. No. I recall an order I received, I think, for thirty miles, within a year.

Q. From what companies do you get quotations at the present time, and from what companies have you been getting quotations on steel telephone wire?

A. Indiana Steel & Wire Company and American Steel & Wire Company.

Q. Any others?

A. That is all I recollect.

Q. Did the Pittsburgh Steel Company ever quote to you on that?

A. I believe not.

Q. Have you ever asked them for quotations?

A. I am not certain.

Q. Has there been competition on this steel telephone wire?

A. Well, they are all after it, yes.

Q. Has it been active or otherwise?

A. Well, I should say active.

Q. Have the quotations varied?

A. Yes.

Q. How long has that been so?

A. I cannot go back more than a couple of years on that.

Q. Do you remember what the difference was before a couple of years ago, or have you any recollection about it one way or the other?

A. My recollection is we bought it at this same place that we do now.

Q. Where do you get it now?

A. The Indiana Steel & Wire Company.

Q. Why have you bought from them instead of the American Steel & Wire Company?

A. Their quotations are lower.

Q. How much lower, as a general thing?

A. Between five and six per cent. at the present time.

Q. That is the present difference there, is it?

A. Yes, it is the difference between 12½ and 17½ per cent., which figured down to actual percentage, would be between five and six per cent.

Q. Out of this $100,000 of annual purchases of these kinds of wire, about how many dollars of it goes to the American Steel & Wire Company?

A. In 1912 I looked up to get at the approximate purchases along those lines, and the American Steel & Wire Company's proportion out of something like $80,000 or $90,000 worth—which perhaps does not represent all our purchases, but the main ones—was $7,000 approximately.

MR. DICKINSON: What time is he speaking of there?

THE WITNESS: 1912; in other words, less than 10 per cent. Ten months of this year it was less than five per cent.

By MR. REED:

Q. Now, do you sell anything to the American Steel & Wire Company and the other Pittsburgh subsidiaries of the Steel Corporation?

A. We do.

Q. Are they good customers of yours?

A. Yes.

Q. Your relations with them are friendly, are they?

A. Very.

Q. And ordinarily do you try to buy from the customers of your own concern where you need the kind of materials that they themselves produce?

A. Yes.

Q. Then why haven't you bought more than 10 per cent. from the American Steel & Wire Company of your wire purchases?

A. For the reason I stated before—their prices were too high.

Q. Have their salesmen used that argument to you that I have outlined in my question?

MR. DICKINSON: I object to that as hearsay, *res inter alios acta*, and incompetent.

MR. REED: Will you answer, please?

THE WITNESS: Yes, they have; they said that they were entitled to a larger share of our business.

By MR. REED:

Q. And your reason for not giving it was as you have outlined?

A. Yes.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You say you have bought steel and iron telephone wire. Does the American Steel & Wire Company make iron telephone wire?

A. I believe so.

Q. Do you know so?

A. No.

Q. What proportion of your telephone wire is steel and what proportion is iron?

A. That I could not say.

Q. You have been buying all of that from the Indiana Steel & Wire Company?

A. Yes.

Q. For how long?

A. From recollection—I could not state positively—but I think for the last two years, possibly longer; I think longer.

Q. How much longer?

A. Perhaps three years longer; say perhaps five years.

Q. So you really do not know whether you have been buying from them only two years or five years?

A. Well, I haven't the exact dates. We have a purchasing agent. Of course I do not look after the details.

Q. Your purchasing agent; what does he do?

A. He gets prices and arranges for contracts, and they are placed either under the direction of the president or myself.

Q. Now, tell me how he proceeds, will you, the purchasing agent?

A. Well, for example, he might figure our requirements——

Q. I would rather you would not say "might"; just tell me what he does.

A. He would figure that our requirements for six months, for example, maybe half a million feet of rubber covered wire, and he would send out requests to the different concerns manufacturing such wire for prices to cover a period of say six months, to be taken as we need it or in one shipment, as the case might warrant. We would get the prices, and the purchasing agent would be instructed to place the business wherever he gets the best price.

Q. Take the year 1907. What was your position then in your company?

A. Vice-president and treasurer, my recollection is.

Q. You had a purchasing agent then?

A. Yes.

Q. How long had he been with your company?

A. Well, with the exception of one year I have been——

Q. No, I said "he"; how long had he been with it up to 1907?

A. In 1907 and a year or two prior, my recollection is our president attended to all the purchasing.

Q. In 1907 and prior to that?

A. Yes.

Q. You had nothing to do with that?

A. In 1907, no.

Q. Nor prior to 1907?

A. No; not with the Union Electric Company, but the concern that merged with the Union Electric Company, I did have.

Q. What concern was that?

A. The General Railway Supply Company.

MR. DICKINSON: You did not ask about that, Mr. Reed, did you?

MR. REED: I asked about his buying these products over a period back to 1905, when he said his acquaintance began. I did not understand it was with a different company. The only product, I think, which Mr. Provost mentioned in regard to which he remembered the facts back of 1905 was steel strand, where his experience he said went back for eight or nine years.

THE WITNESS: Ten years.

By MR. DICKINSON:

Q. So that was the only thing you testified to back of that, was steel strand?

A. That is my recollection.

Q. Then I will not bother you about anything else. Your president, you say, in 1907 had charge of the purchasing?

A. Yes; it was a comparatively small company then.

Q. How long did he continue in charge?

A. Well, possibly—I could not tell you the exact date; of course the organization grew larger and we made more departments and gradually had a purchasing agent, and he had his own department. Of course it was all under the direction of the president.

Q. I understand, but I want you now to tell us how long the president continued to have the sole charge of the purchasing.

A. I could not say.

Q. Did he have it during 1908?

A. I should say yes.

Q. During 1909?

A. No.

Q. Then you had a purchasing agent in 1909?

A. And I really believe we had in 1908; but I could not say positively.

Q. Who was the purchasing agent in 1908?

A. We had probably 70 employes then, and I don't remember. My recollection is that it was perhaps a man named Cluley, still with our company

Q. Don't you know whether your company had a general purchasing agent in 1908 or 1909, and who he was?

A. No.

Q. Have you one now?

A. We have.

Q. Do you know who he is?

A. Yes, sir.

Q. How long have you known that?

A. He has been our purchasing agent, now, I think—purchasing agent and assistant purchasing agent—perhaps for two years.

Q. What is his name?

A. W. A. Bitner.

Q. How long has he been with your company?

A. Four or five years.

Q. Is he a man of experience and character?

A. Yes.

Q. Trusted by your company?

A. Absolutely.

Q. Has he any discretion in making purchases?

A. He has some, yes.

Q. Does he make any purchases himself?

A. He does.

Q. What percentage in the year 1911 did he make without referring to either the president or you? Do you know?

A. I could not state the percentage. On what we might

term little stuff, he is given orders to go ahead and purchase. If it amounts to anything, it goes through my assistant.

Q. What does your assistant do?

A. He is a sort of general office manager. His title is "assistant to the vice-president."

Q. Assistant to you?

A. Yes.

Q. Has he any discretion in the matter?

A. He has.

Q. Does he dispose of any purchases?

A. Yes.

Q. Do you know what percentage he disposed of in the year 1909?

A. No. When it comes to large purchases, they would either come up to the president or to myself.

Q. Take the year 1909; do you know what percentage of any of these purchases came up before you and were disposed of by you?

A. By me personally?

Q. Yes.

A. No.

Q. For 1910 can you tell what percentage was disposed of by you and what percentage by the president?

A. No.

Q. How about 1911?

A. The only thing I can say as to that is that any contract of any consequence would come before the president or myself before it was closed; but when it comes to percentages, I would not know unless we would look up the matter.

Q. Take the year 1912; take all your purchases for that year in steel and iron telephone wire and in insulated and bare copper wire; what proportion of those do you now know that you yourself looked into and disposed of and knew about the details of?

A. I would not say. I could not say.

Q. I will ask you the same as to strand wire.

A. I could not say as to that.

Q. A good many of these purchases, then, for the year

1912 or previous were transacted entirely without your having any connection with them, were they not?

A. I am actively engaged in the business, and have for years signed the vouchers.

Q. Yes; but your president is actively engaged in the business, is he not?

A. Yes. He is out more than I am.

Q. But he is in sometimes?

A. Yes.

Q. And sometimes he passes on and authorizes these contracts?

A. Yes; perhaps more than I do.

Q. You do not undertake to revise his work, do you?

A. No.

Q. Or oversee his business?

A. No.

Q. Then a large part of it has been done in respect to these purchases without any intervention on your part at all, has it not?

A. A great part of it, yes. My brother happens to be president, and naturally we consult on all of the details of the business.

Q. Do you mean to say that your brother does not dispose of any purchases without consulting with you?

A. He disposes of them without consulting with me, yes.

Q. You don't know, for any of these years, what proportion of any of these purchases of these various articles was made in that way, do you?

A. No; but generally speaking I know how the price has varied. That is about all. As to the proportion I would not know, without looking it up.

Q. I am not speaking now about "generally." I am speaking now of what actually took place; and, as a matter of fact, a large number of these purchases for these various years were carried on without your intervention or connection with them, were they not?

A. Yes; some of them.

Q. And a good many of them?

A. Yes.

Q. And you cannot tell what proportion of them?

A. No.

Q. You spoke of that pool: do you know whether or not that pool had a minimum price?

A. I did not see much about the pool except in connection with the electrical end of it.

Q. Were you in consultation with the people who were in the pool, at their meetings?

A. No; we belonged to the Electrical Jobbers Association. They were. They sent out their sheets.

Q. I am speaking about the pool of wire manufacturers. You were not a party to that?

A. No, sir.

Q. You were not at their private meetings?

A. No.

Q. You did not see their agreements among themselves?

A. No.

Q. You don't know whether they had a minimum price or not?

A. No.

Q. You don't know whether these various quotations that you got were all above the minimum price or not, do you?

A. No, I don't.

MR. DICKINSON: That is all.

HENRY J. MENGES

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follws:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Pittsburgh.

Q. What is your occupation?

A. Manager and buyer.

Q. With what company?

A. The Joseph Woodwell Company.

Q. In what business is the Joseph Woodwell Company engaged?

A. General hardware and automobile supplies.

Q. How long have you been buying for them?

A. About 20 years.

Q They are located at Pittsburgh, are they?

A. Yes, sir; Pittsburgh.

Q. Do you buy from any of the subsidiaries of the United States Steel Corporation?

A. Yes.

Q. From which ones?

A. The American Steel & Wire Company.

Q. What kind of products do you buy from them?

A. Wire, plain fence wire, nails, and high-grade wire like market wire and steel spring wire, and things of that kind; music wire.

Q. Do you buy barbed wire too?

A. Yes, sir; barbed wire.

Q. Wire nails?

A. Wire nails; yes, sir.

Q. Before you place your orders, do you ask competitive quotations?

A. No; we usually have contracts.

Q. For what term do you make your contracts?

A. They usually make their contracts for 60 days for a certain tonnage, and sometimes if we do not take out the whole tonnage they extend it, and others sometimes they cancel.

Q. Before you place those contracts do you ask for quotations from different manufacturers of these wire products?

A .The manufacturers usually come to see us.

Q. You don't have to ask them?

A. No; when the contract is almost expired they come and want another one.

Q. How about people that have not got the contract; do they come to see you too? I mean the manufacturers with which you have not made contracts?

A. Oh, yes; they call and see us.

Q. Do their salesmen come in pretty regularly?

A. Pretty regularly? Yes, sir.

Q. Is there competition for your business?

A. Yes, sir.

Q. You buy lots of other kinds of products, don't you, besides these wire products?

A. Buy all the general hardware for the hardware department.

Q. Do you find the same, less or more competition in this wire business than you do in the other products?

MR. COLTON: That is objected to as calling for the conclusion of the witness upon a state of facts not disclosed to the court, which may be in the witness' mind.

THE WITNESS: Can I answer that in some lines the competition is just as keen, and in other lines we buy the competition is keener; in other words, we have some lines we buy where the competition is not very keen.

By MR. REED:

Q. Is this wire business one of the class in which it is keen?

A. Very keen.

Q. Tell us the names of some of these manufacturers of these wire products that give you quotations.

A. The American Steel & Wire Company; Pittsburgh Steel Company; Jones & Laughlin Steel Company; Cambria Steel Company; Youngstown Sheet & Tube Company.

Q. Any others that you remember at this moment?

A. That is all I can recall just at the moment.

Q. How long has Youngstown been in the business?

A. I cannot recall them very readily only for the last two or three years; I do not know just how long they have been in business.

Q. Have they been aggressive or otherwise in seeking your business?

A. They have been very aggressive; more so a year or two ago than just the last year, because we never gave them any business.

Q. You think they have got a little discouraged?

A. I think they got discouraged; yes, sir.

Q. Why didn't you give them your business?

A. They never bought any goods from us; and we try to give business to people who buy from us.

Q. There is sort of a reciprocity between them?

A. We kind of feel that we like to favor those that buy from us, and we never could get any business from them.

Q. Do you buy on a competitive basis?

A. Yes, sir.

Q. Modified to some extent by this idea of reciprocity; is that the idea?

A. Yes, sir; we usually try to give those business that give us the largest business. We try to give them a larger share, providing the price is right.

Q. Do you get quotations both in writing and orally, or exclusively one way?

A. We get them both ways. When our contract is out, they send us a contract with the price, and then if we see fit to accept the price we do it, and if it is not right, sometimes we say they have got to make it lower, and then get it in that way.

Q. Do the quotations of these different manufacturers vary?

A. Yes.

Q. How long has that been so?

A. Largely since the Pittsburgh Steel Company entered the field.

Q. You have had the keenest competition since they started?

A. Yes, sir; and then, of course, after Jones & Laughlin and the Cambria and the Youngstown came in, the competition got keener, and then there is the competition between the Pittsburgh Steel and the American Steel & Wire.

Q. How long has the Cambria been seeking your business?

A. Only for about a year past.

Q. Have you bought from them much?

A. No; very little. We placed just one order with them this year.

CROSS EXAMINATION

By Mr. Colton:

Q. You say you have been in the wire business for 20 years?

A. Hardware business; longer than that.

Q. You have been a purchaser of wire nails and barbed wire?

A. For 20 years; yes, sir.

Q. And fence wire?

A. Yes, sir.

Q. For 20 years?

A. Yes, sir.

Q. From what different companies did you purchase wire nails before the formation of the American Steel & Wire Company?

A. We bought the bulk of our nails before they were formed from the Oliver & Roberts Wire or Nail Company, whatever the name was; South Side, Pittsburgh.

Q. What became of that company?

A. I think they sold out to the United States Steel Corporation; and then there was a Consolidated Wire & Nail Company up in Braddock, we bought a few nails from at that time, but very little.

Q. Did those two companies compete for your business?

A. At that time?

Q. Yes.

A. Yes, sir.

Q. Now, in 1901, what proportion of your wire nails, barbed wire and fence wire did you purchase from the American Steel & Wire Company?

A. 1901, is that when they were formed?

Q. That is the year the United States Steel Corporation was formed.

A. Right after the United States Steel Corporation took over the Oliver & Roberts Company we continued buying there because they had the plant on the South Side.

Q. And did you continue to buy from the Consolidated——

MR. REED: That is objected to as not cross examination, and as counsel make the witness their witness by taking up new matters, I object to these questions because they are irrelevant and have no relation to interstate commerce.

By MR. COLTON:

Q. Will you answer the question, what proportion you bought from the United States Steel Corporation and the American Steel & Wire Company, of the wire, wire fence, and barbed wire, during the year 1901, if you know?

A. We bought all our goods from them at that time.

Q. Including high grade wire?

A. I am just trying to think who we bought our high grade from that year. I think, yes, we bought all our products at that time from the United States Steel Corporation.

Q. In 1902?

A. That is hard for me to answer, but I know for a number of years we bought practically all our goods from the United States Steel Corporation after they were formed, because there was not anybody drumming us up in those days, any other outside company.

Q. Can you name any company outside that was drumming you, as you say, in 1901 for your business, outside of the United States Steel Corporation?

A. I can not recall any at the present time.

Q. Can you recall any in 1902?

A. No, sir.

Q. 1903?

A. I can not.

Q. 1904?

A. No.

Q. 1905?

A. I think the Waterbury Company was after our business about that time.

MR. REED: What kind of wire were you speaking of?

THE WITNESS: All kinds. I can answer that question better this way, that the first party that I can recall that we bought after the United States Steel Corporation was formed

was when the Pittsburgh Steel Company was formed, and that was shortly after they were formed.

By Mr. COLTON:

Q. You do not know when they first came to you and solicited your business, do you?

A. The Pittsburgh Steel Company?

Q. Yes.

A. I do not recall the year, no, sir; it must have been five or six years ago when they started in business.

Q. To the best of your recollection, they solicited your business five or six years ago?

A. The minute they started business they solicited our business; whatever year that was.

Q. What is your best recollection as to the time they solicited your business?

A. The Pittsburgh Steel Company?

Q. Yes.

A. I would say five or six years ago; something like that. I do not recall the year they started; that is the reason I can not answer that.

Q. Take 1907: what companies other than the American Steel & Wire Company and the Pittsburgh Steel Company solicited your business in the various wire products that you have referred to above?

A. The only other companies that I can recall are the Waterbury Company, besides the Pittsburgh Steel and the American Steel & Wire Company.

Q. And it was high grade wire?

A. The Waterbury was high grade wire.

Q. In 1908 what different companies solicited your business?

A. Can you tell me what year Jones & Laughlin started, and I can answer that better.

Q. I want your recollection.

A. As soon as Jones & Laughlin started, and the Youngstown Sheet & Tube Company, at the times they started we began, but I do not recollect what year that was.

Q. You do not recall what year they started; was it as early as 1908?

A. I do not think so.

Q. You think the Pittsburgh Company was soliciting your business in 1908?

A. Yes.

Q. And you think the only other companies that you can name from recollection are the American Steel & Wire Company and the Waterbury Company?

A. As far as I can recollect, yes.

Q. And the Waterbury was high grade wire?

A. Yes.

Q. In 1909 what different companies solicited your business?

A. I think the Youngstown Sheet & Tube Company were in business then; outside of the American Steel & Wire Company and Pittsburgh Steel Company.

Q. Back of 1909 can you recall any other companies than those three that you have named that either solicited your business, or from whom you got quotations?

A. No.

Q. And you think the Youngstown Sheet & Tube Company began to solicit your business in 1909?

A. If that is the year they started.

Q. But you do not recall the year they started?

A. No, I do not recall the year they started, but I can recall that the minute they were in business they solicited our business, but I cannot recall the year.

Q. Did you go to the plant the minute they started in business?

A. No; they came to us, because I remember when they came to see us I said, "You are a new company, and I do not believe you can furnish things promptly." That was shortly after they started to make them.

Q. But you do not recall whether it was 1909 or not?

A. I don't remember whether it was 1909 or not.

Q. And you cannot recall any companies that solicited trade on wire, wire fence and barbed wire, except the Amer-

ican Steel & Wire Company and the Pittsburgh Steel Company, for the year 1909?

A. That is all I can recall.

Q. In 1910 what companies solicited your business?

A. No others.

Q. Or from whom you got quotations?

A. No; the last one that entered the field was the Cambria. That is only just recently, the last year or so.

Q. Do you know that you did get quotations from any other companies besides the Pittsburgh Steel Company and the American Steel & Wire Company in 1910? If so, give the companies.

A. No other company except the Youngstown Sheet & Tube Company.

Q. Are you sure you got any from the Youngstown Sheet & Tube Company in 1910?

A. If they were in business then.

Q. But you are not sure they were in business?

A. No, I do not recall the year they started; that is the reason I cannot answer that.

Q. In 1911?

A. All these companies, the Pittsburgh Company, the American Steel & Wire Company, the Youngstown Sheet & Tube Company, and I guess Jones & Laughlin were in business then.

Q. Are those all the companies that solicited you or from whom you got quotations?

A. That is all, yes.

Q. How about high grade wire? Are there any other companies?

A. I believe I want to correct myself. There was Roebling at one time, I do not recall the year. They solicited our business on nails and wire; I don't recall what year.

Q. Once?

A. Oh, more than once, frequently.

Q. What year?

A. I cannot recall the year; that was from Frick & Lindsay; they represented the Roebling people and they were in to see us—Mr. Frick, I know him personally—they were in

several times and wanted to know if they could not get some business.

Q. And you don't recall what year that was?

A. No; it might be 1904, 1905 or 1906; I don't recall.

Q. What is the name of the company that represented them?

A. Frick & Lindsay.

Q. That was their sales agency?

A. Yes; for John A. Roebling's Sons. They represented them in Pittsburgh. That just came to me; I had forgotten it.

Q. But since that year, whenever it was, they have not solicited your business?

A. No, they have not solicited lately at all.

Q. Now, I asked you about any other companies in high grade wire, if you can remember that. You named all you could in the general lines of wire that you have named, and I want to call your attention to high grade wire, so as to see whether there are any other companies that solicited your business on high grade wire, in 1911?

A. We get high grade wire now from Frick & Lindsay—that is John A. Roebling's Sons—at the present time.

Q. I am speaking of 1911.

A. We bought from them.

Q. In 1911 you bought high grade wire?

A. Yes, from John A. Roebling's, through Frick & Lindsay.

Q. In 1912 what different companies solicited your business?

A. Nothing further than what I have mentioned there.

Q. In 1913?

A. The Cambria Steel Company.

Q. Up to the time that the Pittsburgh Steel Company began to solicit your business, which you cannot now recall, you gave all your business in wire, wire fence and barbed wire to the American Steel & Wire Company?

A. Yes.

Q. In high grade wire, you also gave it all to the American

Steel & Wire Company, up to the time that the Waterbury Company solicited you?

A. And the Roebling Company. We gave Frick & Lindsay, for John A. Roebling, some high grade wire in those years.

Q. What is the first year you gave it to them?

A. I don't remember; it is so long ago I cannot remember.

Q. In 1907 what percentage of your entire wire business did you give to the American Steel & Wire Company?

A. May I ask a question? Was the Pittsburgh Steel Company in business then?

Q. I am testing your recollection on that.

A. You see, I can give you a more correct answer if I knew what year they started in business, if that is allowed, because the first year or so we did not give the Pittsburgh Company any business for the reason that one of our competitors, a hardware company, was interested in that company and we always imagined that they got an inside price, and that is why we did not give them any business, because they could always go out and undersell us.

Q. And it was sometime after the Pittsburgh Company got started, whenever that was, that you knew of their starting, before you gave them any business?

A. Practically a year or so before we gave them any business, yes.

Q. Well, take 1908, what percentage of your business did you give to the American Steel & Wire Company?

A. About two years after the Pittsburgh Steel Company started we gave the Pittsburgh Steel Company about 25 per cent.

Q. From that time back what percentage had you given to the American Steel & Wire Company of all your business?

A. Before? That is, back of that?

MR. REED: You mean back of 1908?

MR. DICKINSON: Back of the time that he began to give it to the Pittsburgh Company.

MR. COLTON: When he began giving 25 per cent. to the Pittsburgh Company.

THE WITNESS: Now, you mean high grade wire and all wire?

By MR. COLTON:

Q. Every kind.

A. 90 per cent.

Q. Now, after you gave the 25 per cent. to the Pittsburgh Steel Company, what percentage for that particular year did you give to the American Steel & Wire Company or to the Steel Corporation?

A. I should say to Roebling about 10 per cent., and 65 per cent. to the American Steel & Wire Company, after we started buying from the Pittsburgh Steel Company.

Q. In the next year after that what did you give to the American Steel & Wire Company?

A. Is that the year that Jones & Laughlin started?

Q. I don't know.

A. You see I cannot tell you unless I know those years. Tell me what year they started and I will tell you exactly.

Q. Up to the time that Jones & Laughlin started, what percentage have you given to the American Steel & Wire Company?

A. Fifty per cent.

Q. I mean before Jones & Laughlin started, and after the Pittsburgh Steel Company started, what percentage did you give to the American Steel & Wire Company?

A. I just answered that, about 25 per cent. to the Pittsburgh Steel Company and 10 per cent. to Roebling's,—about 65 per cent., before Jones & Laughlin started.

Q. After Jones & Laughlin started what percentage did you continue to give to the American Steel & Wire Company?

A. We gave them about 40 per cent.

Q. And you do not know what year they started?

A. No; tell me what year they started, and I will tell you exactly.

Q. Now, take the year after Jones & Laughlin started, whenever that may be; so far as you know you gave 40 per cent. to the American Steel & Wire Company, you think?

A. Yes.

Q. And what per cent. did you give to the Pittsburgh Steel Company?

A. Twenty-five per cent.

Q. What percentage to Jones & Laughlin?

A. Twenty-five. Probably Roebling and Waterbury about 10, for the two of them.

Q. That was on fine grade?

You gave the American Steel & Wire Company, then, 50 per cent. on the wire, fence wire, and barbed wire?

A. Yes; about 50 per cent.

Q. Have you continued to give the American Steel & Wire Company about 50 per cent. on those products?

A. Just about. It has averaged that, yes.

Q. Can you state, for the year 1911, what quotations you got from the Pittsburgh Company on the contracts you let with them?

A. What price it was?

Q. Yes.

A. No, sir; I don't recall the price.

Q. Can you now give what different companies you solicited bids from in respect to that particular quantity of wire that you gave to the Pittsburgh Company?

A. As I remarked before, as soon as our contract expired, they would come to see us. We would hardly ever have to solicit them. They would watch us pretty closely.

Q. They would come around and name you a price?

A. They would come around and name us a price.

Q. And after they had named you a price they would close the transaction?

A. If the price was right. If we had a lower price we would try to make them meet it.

Q. Sometimes you would have a lower price and sometimes you would not?

A. Sometimes we would not. Sometimes their price was lower than what we had.

Q. And you do not now recall how many quotations you may have had?

A. Only one at a time. For instance, the contracts do not

expire at the same time. Some would come to us in January and give us a contract for 60 days. We might have one from another company that expired in February. One party would come around in January and another in February, just as the contracts expired, whatever month it was, they would come to us, and we would either extend the same contract, or make a new one.

Q. In 1911 you had contracts running with the Pittsburgh Steel Company, the American Steel & Wire Company and Jones & Laughlin all at the same time, did you not?

A. Yes, sir.

Q. Do you know what you were paying the Pittsburgh Company?

A. What price?

Q. Yes.

A. No; I cannot recall. They changed so much—the prices—that I cannot recall.

Q. Do you know what you were paying the American Steel & Wire Company on its contract?

A. I cannot recall any price now.

Q. Do you know whether you renewed the contract with the Pittsburgh at the same price that it had previously had?

A. Usually we would always renew it at a little bit lower price than the previous contracts. Sometimes the price would be the same.

Q. Was that true of each of the companies, that when you renewed the contract you would usually get a little lower price?

A. Sometimes. Sometimes they would not change the price and we would renew at the same price. When the market conditions were a little off they would probably cut the price from what we had before.

Q. And sometimes you had quotations that were the same?

A. Yes; sometimes we had quotations where we got the same price; sometimes.

Q. You cannot now recall how many of the different quotations you got from time to time were alike, and how many were different, can you, during the years 1910, 1911, and 1912?

A. We would probably make about a 60 days contract; that is, two months; we would probably make six contracts a year. I would say that at least half the time the price would not vary, and probably the other times there would be either an advance or decline.

Q. About half the time the price of the different bidders would be the same?

MR. REED: That is not what he said.

By MR. COLTON:

Q. And about half the time it would be different?

A. There was not any bidding.

MR. REED: That is not what he answered. He is contrasting the prices of these successive contracts. That is what he has in his mind.

THE WITNESS: When a man comes in and wants to renew his contract we do not make out a contract, but we take up the matter of prices, and get the best we can out of them. During the life of the contract, if we get a lower price from anybody else we are buying from, we go to those people and say: "If you want to get any business you have to give us a certain price." Sometimes they do and sometimes they do not. If they do, they get the business. If they do not, they don't get the business—contract or no contract.

By MR. COLTON:

Q. If you get a lower price from the outside, you go to one of the different manufacturers with it?

A. How is that?

Q. If you have made a contract with the Pittsburgh Company, for example, and you get a lower price from anybody else, you go to the Pittsburgh Company with that lower price?

A. If we think we would like to give them a little business we say: "If you want any business you have to make it so and so."

We do not mention who we get the price from, or anything else, but we just say: "You have to change your price to so and so."

Q. And sometimes they change and sometimes they do not?

A. Sometimes they change and sometimes they do not. If they do not, they don't get any business.

Q. And they would not know whether you had that price or not?

A. No; they have to take our word for it. They do not know whether we are bluffing them or telling them the truth; but usually we try to tell the truth in those matters.

Q. How frequently do you try? How often do you not try?

A. I never lie to get a price. In all my buying I never have.

Q. You do not recall, however, how many of the different quotations that you had during 1910 were alike and how many were different, do you, of the different wire manufacturers?

A. I said before that I thought about half. I said I thought we would probably renew about half the contracts at the same price, and probably on the other half there would be either a decline or an advance, just as the market conditions were.

Q. That is, if you got quotations from the manufacturers——

A. When the contract comes in they come in with a price, for instance, and they say: "We want to renew your contract." I say: "What is your price?" They say: "So and so." I say: "You have got to do better than that." They say: "We cannot do any better than that." We talk and argue back and forth; and if we have a lower price, we stick out for it. If we have not any lower price, we renew.

Q. Sometimes you could not bluff them, and they stuck to their price?

A. Yes.

Q. On any given contract that you placed during the year 1910 can you now state what companies bid—on that particular contract?

A. We had only one contract with each particular cor-

poration at a time. Our contracts never expire at the same time.

Q. That is your method of doing business?

A. Yes.

Q. And you never took any business on any particular tonnage?

A. No. They usually know about what we contract for, and it is 100 tons or 150 or 200 tons, or whatever it is; and they come in for that contract with a price.

Q. And those are the different people that you had dealings with, and they knew your custom and course of business, did they not?

A. Yes.

Q. And those were the ones that came to see you?

A. Yes.

Q. And you have named all the different companies that you can recall that did come to see you, have you not?

A. Yes.

Q. From whom you got quotations?

A. Yes.

Q. And that was your method of doing business, and that was the way they did business with you?

A. Yes.

Q. And you cannot now recall the prices in 1910 for any one of those different companies?

A. I could not; no, sir.

Q. Or in 1911?

A. I don't recall any of the prices.

Q. Or in 1912?

A. No.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Mr. Menges, you have not meant to testify to the particular year that the Pittsburgh Steel Company started in business, have you?

A. No; I am not sure, but I think it was five or six years ago. I am not sure.

Q. Or the Jones & Laughlin Steel Company; you have not meant to specify the particular year?

A. No, I do not recall the exact year; the only thing I can say was the year they started in business, they were after our business, whatever year it was.

Q. That is the way you fix the time, and not by the number of any particular year?

A. No. I could refresh my memory on that if you wanted it. I did not know you wanted that.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

EDWARD N. McKINNEY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Albany.

Q. How long have you lived there?

A. Fifty-six years; one of the old residents.

Q. In what business are you?

A. Steel and iron work for buildings.

Q. What is the name of your business?

A. The firm name?

Q. Yes.

A. James McKinney & Son.

Q. You are the senior member or sole member of that firm?

A. I am the sole proprietor of the business; I simply work under that name.

Q. How long have you been doing business under that name?

A. Since 1884; I believe that was the date I was admitted to partnership with my father.

Q. How long have you been in the steel or iron business, altogether? When did you first begin; you, personally? When did you first become connected with the business?

A. In 1874, but then I went into the shop. I really did not get into the office until 1877.

Q. For how long have you been familiar with the buying of steel?

A. Well, ever since they began to produce steel; that comes within my business career.

Q. And how long before that were you familiar with the buying of iron?

A. Almost as soon as I went into the business, or, we will say, a year after I got into the office, until I familiarized myself with some of the details of the business.

Q. That is, in the later seventies you began to have a knowledge of buying iron?

A. Yes.

Q. What products of steel or iron do you manufacture?

A. Structural steel for buildings and ornamental iron for buildings.

Q. What kind of steel and iron do you buy?

A. In the steel line largely structural shapes, such as beams, angles, Ts, channels, plates and some bars.

Q. And some sheets?

A. Some sheets.

Q. What kind of iron do you buy?

A. Bar iron, as a rule.

Q. That comes in the form of bars, mostly?

A. In the form of bars almost entirely, yes.

Q. About what tonnage of steel do you buy annually at the present time?

A. Why, I should think possibly this year it might amount to—this is only an estimate—2,500 tons.

MR. COLTON: Is that steel only?

THE WITNESS: Steel only. I should say it would run about that; I could not tell you exactly without reference to my books, but I should say somewhere around there.

By MR. REED:

Q. And about what part of that tonnage is structural shapes?

A. Including plates?

Q. No.

A. Oh, I should think four-fifths.

Q. And what part is plates?

A. Well, my purchases of plates vary so. You see, structural shapes themselves are fairly constant in my business. Plates come and go; I might have purchased this last year in plates from 100 to 200 tons; I would say possibly 200 tons.

Q. And are your steel bar purchases considerable?

A. No; comparatively light. I use almost entirely iron bars.

Q. About what tonnage of sheets do you buy?

A. That is a very, very variable quantity. I happen to have a contract now which will use 75 to 100 tons, but I might not have a similar contract in three or four years. My sheet purchases are comparatively light, excepting by chance.

Q. And how about iron bars; do you buy a considerable quantity of them?

A. Yes; I should think that I might go from 200 to 300 tons a year.

Q. That is mostly puddled iron, is it?

A. Yes; they are called refined iron.

Q. That is malleable iron, which is refined in a puddling furnace?

A. Not malleable iron; malleable iron is a cast iron made in a special way. This is puddled iron, and rolled out the same as steel, only it is iron instead of steel.

Q. Do you buy any pipe, any considerable quantity?

A. Very little.

Q. Which do you buy, steel or iron pipe?

A. I think most pipe is steel now. If you ask for iron you

get steel. It is principally steel pipe. I only use it for railing purposes and that kind.

Q. It is not a considerable part of your buying?

A. No.

Q. Now, let us take up this matter of shapes; from what companies did you get quotations on structural shapes?

A. The Carnegie Steel Company, the Bethlehem Steel Company, the Eastern Steel Company, the Phoenix Iron Company, the Cambria Steel Company, Jones & Laughlin, and sometimes the Lackawanna Steel Company. And then in plates, most of our purchases happen to be made from the Lukens Iron & Steel Company—I think that is the title—and in some instances from the Glasgow Iron Company. I sometimes forget the titles, because we are in the habit of abbreviating by saying "Lukens" and "Glasgow."

Q. But those two companies quote you on plates?

A. And sometimes the Carnegie Steel Company, but not often.

Q. Did any of these other companies quote you on plates, like Jones & Laughlin, Cambria and the Lackawanna?

A. Once in a great while, but I am not very apt to ask them for quotations.

Q. You confine your plate buying most to Lukens and Glasgow?

A. Yes; very largely from Lukens, except when I get into sheets; then with this present contract that I just referred to, I am buying from Wood Brothers.

Q. We will come to sheets later.

A. I see; all right.

Q. How do you buy your shapes, on annual contracts or in lots as you need them?

A. As we need them; very rarely on contract.

Q. And before buying is it your custom to send out inquiries for quotations among these concerns that you have named?

A. Almost invariably so, unless I want to favor some special concern; that is, when I want to place an order with them particularly, thinking they can make the best delivery, from what I know of the condition of their mill.

Q. In the majority of cases do you ask quotations?

A. Almost entirely so.

Q. Do the quotations that you receive in reply to these inquiries vary, or are they the same?

A. They vary.

Q. And what is the range or extent of that variation?

A. It depends very largely on the condition of the market. If business be pretty good, what I call a good, steady business, the variations will be rather slight; if the market be very active, as, for instance, it was last fall, the variations are considerable, and if it be a falling market, you are apt to get more of a variation.

Q. It depends more on the condition of business, then?

A. Yes, it depends a great deal on the condition of business.

Q. Do you place your orders usually with the lowest bidders?

A. Everything else being equal. Of course very often the time of delivery is of very great moment, and I have at times, in fact I quite frequently will place an order with a mill who may quote a dollar a ton more than other mills, because they may have the material in stock and can make immediate shipment, and a dollar a ton is of no consequence as compared with getting the material.

Q. So there the competition is more with the time of delivery than it is with the price?

A. Yes. We all like to get the lowest price we can, but sometimes price cannot enter into consideration, when your customer is waiting for his goods.

Q. Is the competition for your business among these different makers of structural shapes active?

A. Yes.

Q. As to plates, for what reason have you confined your buying chiefly to Lukens and Glasgow?

A. As a rule those concerns can make quicker deliveries than other concerns I am dealing with, particularly the Lukens; then, I like the concern, I like the quality of their plates, I like their treatment, and they usually quote me as low

a price as I can get any place in the market, and I have found that out, after years of dealing, so that I am very apt to confine myself to Lukens. At times I have, when the market has been a little bit unsteady, and there has been more or less of a cut in prices, purchased of the Carnegie Steel Company because I could get better prices of them than I could even of Lukens.

Q. How long has it been, Mr. McKinney, that prices quoted to you by the makers of structural shapes have been varying in the way that you indicate?

A. Oh, a great many years. I don't know as I can tell you the exact number of years. I would say almost ever since they began making steel, more or less.

Q. Do you remember the time of the pools in structural shapes?

A. Do you mean in steel structural shapes?

Q. I mean in steel structural shapes.

A. I was never very conscious that a pool existed, to be perfectly frank.

Q. Why not?

A. Why, because, as I recall—I am going back now, and it is very difficult to remember what happened ten or fifteen years ago—but it seems to me, as I recall, that I was always able to get some variation in price, even in those early days.

Q. Your experience goes back, in buying structural shapes into the days when those shapes were made of iron, I suppose?

A. Oh, yes.

Q. You used to buy iron shapes?

A. Yes.

Q. Did they ever have pools in those days?

A. I should say very decided ones.

Q. For general effectiveness, how did the pools in those good old days when they made iron structural shapes, compare with the pools in steel shapes that we had up until 1904?

Mr. Colton: Before you answer that question, I object on the ground that it has not been shown whether this witness knows that the structural pools and plate pools and various

pools in steel products were pools that fixed a minimum price, and that he is incompetent to testify on the subject.

MR. REED: Very well. Mr. McKinney, please answer. That objection is for the record.

(By request of the witness the stenographer repeated the pending question.)

THE WITNESS: In the iron days those pools seemed to be very effective, because it was almost impossible, as I recall, to get any price except the pool price.

By MR. REED:

Q. Those pools were more effective, then, than the steel pools?

A. Oh, I should say so.

Q. Let us come, now, to sheets, Mr. McKinney. From what concerns, beside this Wood concern at Conshohocken, have you bought your sheets?

A. There are two concerns at Conshohocken, the Alan Wood Company and J. Wood & Brother. Then, besides that, I have at times bought of Lukens, because they do roll—we call them sheets, but they are a light plate; I think they roll down to about one-eighth of an inch in thickness, or about a number 11, and I have, at times, bought of Worth Brothers; I think they are at Coatesville, Pennsylvania.

Q. Do Worth Brothers roll plates so thin as to be in the class of sheets?

A. I rather think not. I think it is more about the same as the Lukens Iron & Steel Company—down to about one-eighth of an inch in thickness, or what we call No. 11 gauge. I don't think they go into the thin sheets.

Q. Now, do you buy any sheets from the American Sheet & Tin Plate Company?

A. Not unless indirectly.

Q. Do you ever ask quotations from them?

A. Not that I recall.

Q. Do you find competition for your business in sheets as in these other materials?

A. Yes, sir.

Q. Mr. McKinney, what has been your experience with the

Carnegie Steel Company in the prices that it charges during very active times in the market? Do those prices go as high as those of its competitors?

A. My experience has been that when prices are advancing the Carnegie Steel Company is the last one to advance.

Q. How has it been when prices were declining?

A. They were the last one to decline; that is my personal experience I am giving you now.

Q. Of course that is what we want. Has that course of action any effect in steadying the market?

A. Absolutely; as far as my judgment is concerned.

Q. And if your experience is typical of the experience of other buyers in the same position, would that have an effect in bringing a steadier market?

A. I think so, and I think every manufacturer of steel—now, when I speak of a manufacturer, I speak of myself—buying plain material and fabricating it, and being a bidder myself on work, I think most manufacturers of steel, like myself, prefer a steady market.

Q. Now, Mr. McKinney, you know what is meant by the phrase "charging premiums," don't you?

A. Yes, sir.

Q. If I correctly understand it, it is asking an unusually high price in order to change the manufacturer's rolling schedule and prefer the customer that pays the unusual price?

Mr. Colton: I object to that as leading and a statement of counsel to the witness and informing the witness as to what answer may be expected.

Mr. Reed: As no question has been asked, it is pretty hard even for counsel to know what answer can be expected.

By Mr. Reed:

Q. Have you known of any such practice as that having been followed by the Steel Corporation?

Mr. Colton: I object to the question as leading.

The Witness: Do you want me to answer?

By Mr. Reed:

Q. If you please.

A. I have had no personal experience of the Steel Corporation asking me a premium on any goods that I have bought.

Q. Have you ever been asked for premiums by other manufacturers? I do not ask you to specify which ones.

A. Yes, sir.

Q. Did you ever offer a premium to the Steel Corporation?

A. Yes.

Q. When was that?

A. I should think it was about 1902. It was at a time when there was great activity in the steel market, and we were getting deliveries from most of the mills averaging about six months after order was placed, and quite a number of foreign beams were coming in because the home makers did not seem to be able to supply the demand. I had an order come in representing about 100 tons, which I was very anxious to get quickly, and I got a price on the foreign beams which was about two and a quarter cents per pound, and the delivery about two months, and I preferred to place my order in this country, if I could, so I went over to the Carnegie Steel Company, which was at that time asking $1.60 a hundred, or about $13 a ton less than I could buy the foreign beams for, and told them that if they would take the order for two months' delivery I would be glad to give them the same price, or $1,300 advance over their regular price.

Q. What was their answer?

Mr. Colton: That I object to as irrelevant.

The Witness: They declined it. Would you like me to state their reason for declining it?

Mr. Colton: I further object to the testimony as hearsay.

By Mr. Reed:

Q. If it was stated to you at the time, I wish you would go on and give us the rest of the conversation.

A. The position that the steel company took was that their price was $1.60, that they wanted to preserve a uniform price,

no matter what the market price was with others, that they preferred a steady market; they thought it was better for the maker and for all concerned to have a steady market, and that they had held their price at $1.60, even though other makers were asking much more than that, and they said "It is naturally a temptation when a person comes into your office and says if we will ship work in two months they will give us $1,300 premium for doing so, but what will become of your orders?" They said "We have orders here just ready for delivery of yours that have been on our books five to six months; if we take these quick orders then your regular orders are delayed, and we cannot afford to treat our customers that way, and we prefer to keep to the price," and they declined the order. I had to get the order abroad.

Q. And you bought the beams abroad?

A. I bought the beams abroad.

Q. That was in 1902?

A. I think about that time. I cannot tell exactly, because it was a time of great activity, and it was about that period.

Q. Do you buy other kinds of supplies, Mr. McKinney, than steel?

A. Yes, sir.

Q. Do you buy lumber and things of that kind?

A. I do.

Q. Have you found any difference between the competition in steel and the competition in these other articles?

A. Not that I could see particularly.

Q. Competition for your steel purchases is active, is it?

A. Very.

CROSS EXAMINATION

By Mr. Colton:

Q. Did you at the time you applied to the Carnegie Steel Company to give you a quick delivery know that they had contracts with others that they would have to violate in order to give you that special delivery?

A. No, I did not. I did not know anything about their contracts, knew nothing about it. I had no contracts with them

myself; I was simply placing my orders with them regularly, as with other mills, but as to contracts with others, I knew nothing about it.

Q. Then you never offered them any $1,300 to change any of their contracts as to the time of their delivering steel under their contracts?

A. No, I did not. It was a perfectly plain, open offer, that if they would deliver within two months I would be glad to give them the price I could get from abroad on the same basis.

Q. And you did not make that offer as an inducement to make them break their engagements with anybody else?

A. No, I did not.

Q. I understood you to say that absolutely the Carnegie Steel Company's disposition to maintain its price uniform had an effect, is that correct?

A. Will you repeat that question again?

Q. It had a steadying effect on the market; is that correct?

A. Yes, sir.

Q. And you have observed this steadying effect on the part of the Carnegie Steel Company and the Steel Corporation generally during the last ten years?

A. Well, no, I have not been so conscious of it in the last ten years; that was the policy that they inaugurated when they were formed as a steel corporation, and I have rather assumed that it was their continuing policy.

Q. Didn't you testify that their policy continued in effect, and continued to have a steadying effect on the market?

A. I do not think I said so in so many words.

Q. Well, has it?

A. I cannot tell you. Well, I should think, in the main, it had a steadying effect, but the same as any large concern has a steadying effect upon certain smaller concerns.

Q. Any large concern manufacturing about one-half of the production would have a marked steadying effect when it had one system or policy as to price; is that what you mean?

A. Yes; and I should think it might have a steadying

effect if one large concern did that, that it would have a steadying effect upon the market.

Q. If it had control of half of the country's production in a given product?

A. Why, I think it is fair to assume that in any line of business, that any one well known large concern quoting prices might have had an influence or had an effect in steadying the market on prices, as compared with a lot of smaller concerns, even though some of those smaller concerns were equally large. Now, there are other concerns almost as large as the Carnegie Steel Company——

Q. What concerns——

MR. REED: Let him finish.

MR. DICKINSON: We had a right to assume that he had finished.

MR. REED: No, Mr. Colton interrupted him.

MR. COLTON: No, I did not.

THE WITNESS: So far as the Carnegie Steel Company is concerned—you spoke about that—or about controlling half of the market, I have never been conscious in my business that they did control half of the market.

By MR. COLTON:

Q. Now, you say some of the smaller concerns that are equally large.

A. I did not say that.

MR. COLTON: Repeat the answer.

(The answer was repeated by the stenographer.)

MR. REED: If that answer is incorrectly reported, correct it.

MR. DICKINSON: He says he wants to change it, but he cannot change the record.

MR. REED: He has been trying to say——

THE WITNESS: (Interposing) I did not intend that, if I said some of the smaller concerns being equally large, because the thing does not balance at all.

MR. DICKINSON: That is what you said. If you want to correct that, all right.

MR. REED: That is what I told him, Judge; I am glad we agree.

THE WITNESS: I would say, instead of equal, nearly as large, even though some of those smaller concerns were nearly as large. I had in mind when I made that answer that the Jones & Laughlin people were supposed to be as great in ouput as the Carnegie Steel Company. They are the one very large, as they call them, independent concern. Of course, they call those independents that are outside of the Steel Corporation.

MR. DICKINSON: Now, are you through?

THE WITNESS: Yes.

By MR. COLTON:

Q. You said there were some other concerns almost as large as the Carnegie Company. Name those concerns.

A. It is generally supposed—now, you can read this in the papers as well as I—but it is generally supposed and generally stated that the Jones & Laughlin Steel Company in Pittsburgh are nearly as large as the Carnegie Company in output. That is what I have always been informed.

MR. DICKINSON: Now, are you through?

THE WITNESS: I am.

By MR. COLTON:

Q. Is that the only one you can name?

A. Well, I cannot give the comparative sizes of the different independent concerns; the Bethlehem Company is a very large concern and the Cambria Steel Company is a very large concern.

MR. COLTON: Read him my last question.

(The question was repeated by the stenographer, as follows:)

"Q. You said there were some other concerns almost as large as the Carnegie Company; name those concerns."

MR. COLTON: Now I want an answer to that question.

MR. REED: That is what he was doing when you stopped him.

THE WITNESS: I was trying to. I said that it was generally reported that Jones & Laughlin at Pittsburgh were nearly as large as the Carnegie Steel Company in their output.

By MR. COLTON:

Q. Is that the only one you had in mind when you were speaking of companies nearly as large as the Carnegie?

A. I had in mind also the Bethelehem Company and perhaps the Cambria.

Q. Now, do you know whether the output of Jones & Laughlin and the Bethlehem Company and the Cambria, taken together, amount to three-fourths of the output of the Carnegie Company?

A. I do not; I couldn't state that.

Q. In structural material or in plates?

A. I do not know.

Q. Don't you even know that the Corporation has on a general average manufactured more than half of the structural material manufactured in this country since it was formed?

A. I will answer that as I know it; that is, as I understand it, because you are asking me very leading questions, and a man like myself only has the same means of knowing that you have, and that is, what they may read in the papers, or from general reports, and so forth. When the Steel Corporation was formed it was generally supposed that they were about as large as all of the independents put together. It is pretty well understood now, I think. In fact, I understand now that the combined independents represent quite a little more than 50 per cent. of the output of steel in the country as compared with the Carnegie Steel Company.

Q. As compared with the Carnegie Steel Company?

A. As compared with the Carnegie Steel Company.

Q. Now, taking the entire Corporation, don't you know that the output of the independents does not equal the output of the Corporation in ingots?

A. I do not know anything about the steel production——

MR. REED: This is in ingots.

MR. COLTON: He changed it to steel.

THE WITNESS: I do not know anything about the ingots or the capacity of the ingot mills or what they produced.

Q. Do you know what the output of the Illinois Company is in structural shapes?

A. I do not.

Q. Do you know what they get out at the Gary Plant in structural shapes?

A. I do not.

Q. Do you know any company outside of the United States Steel Corporation that manufactures as much as 15 per cent. of the structural shapes in the United States?

A. Outside of the Steel Corporation?

Q. Yes.

A. When you ask me for exact information I cannot give it to you about any of the companies. I would say that from what I know of Jones & Laughlin, that they manufacture 15 per cent., if report be true.

Q. What report have you that credits them with tonnage amounting to 15 per cent. of the total output in structural material?

A. I have no definite reports; I simply read in the papers about Jones & Laughlin and their growing size and increasing capacity, and so forth, and I simply assume, on account of their being recognized as the largest independent, that they must have a capacity of 15 per cent. of the steel production in their line.

Q. That is all you know about it?

A. That is all I know about it.

Q. Take the year 1901: From what different companies did you solicit bids on structural shapes?

A. I was trying to think of the concerns in existence then: the Carnegie Steel Company, the Jones & Laughlin Steel Company—well, those that were in existence at that time. The Cambria Steel Company was probably in existence at that time; the Phoenix Iron Company. The other concerns that I am buying of now, the Bethlehem Company and the Eastern Steel Company, I think have been formed since that time. If

they were in existence then, why, I was asking also prices from them.

Q. What concerns in 1901 can you now recollect that you solicited bids of?

MR. REED: He has already answered that.

By MR. COLTON:

Q. Solicited bids or got quotations from?

A. You are asking me for something twelve years ago, very specifically. I have always been in the habit of asking bids from concerns manufacturing steel, when I had the purchasing of what we call the raw material, that is, the plain rolled shapes. I have never confined myself to any one company. Jones & Laughlin were in business at that time and I was undoubtedly getting prices from them at that time, and all the companies that were in existence at that time.

Q. You don't know whether Jones & Laughlin were manufacturing structural shapes at that time or not, do you?

A. They certainly were.

Q. You are positive of that?

A. Yes.

Q. What other company are you positive of?

A. If they were not, then my memory is wrong; but I would say, without doubt, that Jones & Laughlin were, because they are an old concern, and I was buying——

Q. Well, how about Cambria? Did you solicit any bids from them?

A. I can't tell you whether Cambria was making structural shapes at that time or not. I rather assume that they were. It is only twelve years ago, and most of those big concerns had been making structural steel in that period.

Q. You are pretty positive about Jones & Laughlin?

A. Yes, sir; I am pretty positive about Jones & Laughlin. I may be wrong. You are asking for an exact memory. I am simply trying to remember who were making steel at that time.

Q. You may be wrong about Jones & Laughlin?

A. Possibly.

Q. And you are less sure about Cambria than you are about Jones & Laughlin, are you not?

A. Yes, sir.

Q. Name all the companies that you can positively recollect that you solicited bids from in 1901, if you have any recollection. If you have no recollection, you can say so.

A. I know I was asking from the Carnegie Steel Company, because I have been dealing with them for a great many years, even long before they made structural steel, when they were making structural iron. When you come to ask me a definite question, however, I would have to refer to my correspondence in Albany to go back to the records. I only know that when I came into the business my father was dealing with the Carnegie Company—not under the name of the Carnegie Steel Company, but under the old names that they were working under. I think at one time it was Carnegie, Phipps & Company and they had several names before they became the Carnegie Steel Company. We have always dealt more or less with that concern.

Q. Do you know what percentage of your structural shapes you bought from the Carnegie Steel Company in 1901?

A. No, I could not say.

Q. Nor whether it was over 50 per cent. at that time?

A. That I bought of them?

Q. Yes.

A. I could not say, because I cannot give you, from memory, anything as definite as that.

Q. If you did get more quotations than one quotation during 1901, do you have any recollection as to what the quotations were?

A. No; that is too definite for me to remember for twelve years back.

Q. Coming back to 1902; is your memory any better about 1902?

A. When you get a year apart you are going back, now, ten or twelve years, and I can only state in a general way about a period of that kind.

Q. You could not name any company other than the Carnegie Company that you are absolutely positive that you got bids from in the year 1902? Is that correct?

A. Yes; I think that is correct.

Q. Or received quotations from on structural shapes?

A. I don't know as I had any quotations from anybody but Carnegie, although I assume the other steel mills were giving me quotations because I have always been in the habit of asking quotations from everybody recognized as good manufacturers of steel or iron.

Q. Take the year 1902: could you give me the percentage you bought from the Carnegie Company?

A. No, sir; I could not.

Q. For 1903, would your answers be the same to those same questions?

A. I could not give you any percentage for any of those years.

Q. In 1903 can you tell me how many of the manufacturers, if you were quoted by more than the Carnegie, quoted the same price at different times?

A. No, sir; I could not.

Q. In 1904 would your answers be the same?

A. The same.

Q. In 1903 could you tell me what percentage of them were different on the different bids that were made, and what percentage were alike, if you have any recollection?

A. No; I cannot go back that far. I will only make the statement that I have always, since I have been in business been in the habit of getting competitive bids, and that I have found in the steel business that those competitive bids would vary.

Q. And that you got some variations?

A. I always got some variations.

Q. Sometimes there would be more than one alike, would there not?

A. Oh, yes; there might be, yes.

Q. And you do not now recall, for the years 1902, 1903,

1904, how many of them were alike and how many were different?

A. No, I don't.

Q. Would your answers be the same for 1905 as for 1904?

A. Yes.

Q. For 1906 would your answers be the same for those same questions?

A. Yes.

Q. How about 1907?

A. I cannot go back for years and give a specific statement of what occurred five to ten years ago. I can only make the general statement, which I am making honestly, that I have always had competitive bids, and that I have always found more or less variation in those bids. When you pin me down to one year or one month and say "Was it in that year?" I cannot tell you unless I refer back to my correspondence in my office. I remember a good deal, but I don't remember all those details.

Q. As I understood you, for the years 1902, 1903, 1904 and 1905, you said that you sometimes got the same bids from different manufacturers, and that you got some variation and that you could not give the extent of the time that the manufacturers were the same—those that were the same—nor the number that were the same, nor the number that were different for those different years.

I am now asking you the same question for 1907. Can you give any more information than you could for 1902, 1903, 1904, 1905 and 1906?

A. No, sir; I cannot.

Q. For 1908 can you give any more information in regard to that?

A. Well, 1908 was a year of great depression; that is, particularly the early part of the year; and I remember that there was a variation in prices that were offered by the different steel concerns on account of the slackness of business.

Q. How was it in 1909 in regard to fluctuation in price?

A. As I recall it, the fluctuation was not so great, because

business was getting better, and there is never as much fluctuation in a steady market as there is in a rising market or a falling market.

Q. That is your recollection of the year 1909—that there was less fluctuation in 1909 than there was in 1908?

A. Yes; that is my recollection.

Q. Don't you know that as a matter of fact the prices continued more nearly uniform during the year 1908 following the panic, and that then after about a year after the panic in the early part of 1909 there was a severe cut in steel products?

MR. REED: Are you talking about the prices quoted to him or the prices quoted in the Iron Age?

MR. COLTON: The prices quoted to him and the prices quoted to everybody.

MR. REED: I object to his being asked the prices quoted to everybody, because he has not testified about them, either on direct or cross examination.

THE WITNESS: Let me ask you a question.

By MR. COLTON:

Q. All right; go ahead.

A. I was trying to think—I thought that cut was made in 1908. If the cut was made in 1909, you have got to let me know, because I know there was a cut made, and I simply got the two years mixed, but if the cut was made in 1909, that was the year—in the spring, then, of 1909 the cut was made, was it?

Q. I don't mean to answer any question of yours.

A. I know; that was the year that I found a very considerable variation.

Q. You do recall that there was a very considerable variation, but you are not now positive whether it was 1908 or 1909?

A. There was a very considerable variation which I suppose, on account of the dullness of 1908, was made then, but I remember it came early in the year; it came about the first

of February, and if it was 1909, that was the time the cut was made and the variation occurred.

Q. You had wide variations during that cut, whenever it was made?

A. There was a very considerable drop in prices.

Q. Now, in 1910; would your answer be the same in regard to 1910 as it was in regard to 1907?

A. My recollection of 1910 is that the market steadied up a good deal; that is, business was getting on a steadier basis, and that the prices became more nearly uniform; that is, the mills were getting more orders, and the cutting had ceased to a large extent.

Q. Now, in 1911, what is your recollection about that?

A. Why, I think 1911 was a pretty fairly steady year.

Q. Let me see if I can refresh your recollection on that.

A. In 1912—let us get to 1912——

Q. Wait; we want to keep on 1911. In 1911 don't you recall that following an announcement by Topping that he would withdraw from the co-operative movement, that there was a cut in prices that began in bars and then extended to other steel products? Don't you recall that?

A. Yes; I remember the withdrawal. Who is Topping? Of the Republic Iron & Steel Company?

Q. Yes, that is right.

A. I remember that a cut was made; I think he made a cut of two dollars a ton.

Q. And then it extended down five or six dollars a ton?

A. It continued until along in the spring of 1912; it was a dropping market, and continued, in fact, until the summer of 1912, in the summer of 1912.

Q. There was a very severe fluctuation following that for the next seven or eight months, wasn't there?

A. Yes; I should say so, for a period of about a year. There were fluctuations, and then prices revived again last fall—a year ago last fall, in the fall of 1912; about the first of September the market began to stiffen up and prices advanced steadily from that on toward the close of the year.

Q. You would not undertake to say, Mr. McKinney, that

prices were not, during the year 1908, at the time the factories were running only about 50 per cent. full, more uniform than they were during the year 1909, would you?

A. 1909, as I remember now by just reversing the years in my previous statement which I have reversed before, as I recall in 1908, especially in the early part of 1908—well, through 1908, there was a great disposition to try and steady prices, and then the market broke and took care of itself later on. I recall it particularly being 1909, as you say that was the time of the drop, because I happened to have a contract at the time which favored me, because I had taken it at the higher price and I bought at the lower price.

Q. You think, then, that it was the spring of 1909 that that cut came?

A. It came early in February—early in February, I think it was, that that cut came.

Q. Could you give any more definite information in regard to plates; the extent to which they were the same for certain periods, and the extent to which they were different, than you have in regard to structural shapes, or would your testimony be substantially the same in respect to plates?

A. I have never considered myself much of a purchaser of plates. I have usually found that the plate market followed the structural steel market. If one was going down, the other went down; if one went up, the other would go up.

Q. And your testimony would be substantially the same in regard to prices on structural shapes and plates?

A. Yes, sir.

Q. You would not consider them separately?

A. No, sir.

Q. And you are even less familiar with the market in bar steel, aren't you?

A. Yes; of course I naturally read the reports of the market as to the price variations, but I purchase so little of bar steel that I only keep track of it as affecting the iron market, because the steel bar and the iron bar run very much alike; sometimes one will be a dollar a ton more than the other, and vice versa, it may be a dollar a ton less.

Q. Did you buy any steel bars as early as 1901?

A. I may have done so; I do not recall.

Q. What is the first year that you recall purchasing any steel bars?

A. I could not tell you.

Q. What is the first year that you recall purchasing any sheets?

A. I could not tell you, because I have always bought more or less sheets; it is part of my business—not a large part.

Q. And I believe you said that it was sometimes a little bit more than others, but as a general rule it is very light?

A. Very light.

Q. I understood you to reckon as sheets everything 12-gauge and thinner; that is correct, isn't it?

A. We call those sheets in my shop, as differentiated—we begin to call them plates when they are about 3/16 of an inch thick.

Q. I understood you to classify as sheets those having 12-gauge and thinner, and plates——

A. I was only making that classification as we rated sheets in my own shop. I do not intend to give the classification of sheets. I don't know what the sheet mills call the classification of sheets.

Q. You do not know where the classification begins?

A. No, I do not.

MR. REED: I do not believe anybody does, Mr. McKinney, unless it is Mr. Colton.

MR. COLTON: We have had witnesses testify that the division between plates and sheets begins at about an eighth of an inch— that is it begins at about 12-gauge and thinner as sheets; and thicker as plates.

THE WITNESS: I would say this, that the sheet mills, I think, usually begin—the two mills that I buy sheets of when I want fine sheets—I think they roll No. 8—I am not sure, but I have got an impression that they started from 12-gauge and lighter.

By Mr. Colton:

Q. Thinner?

A. And thinner, yes; but when I made my statement it was only that I was giving my own shop practice on what we call sheets and what we call plates.

Mr. Colton: That is all.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Did you ever get quotations back in 1901 from the Passaic Rolling Mill Company on structural?

A. I used to deal quite considerably with the Passaic Rolling Mill Company, and I am a little in doubt as to specifying 1901, since Mr. Colton took me up on the Jones & Laughlin Company in 1901, because I guess it would be merely a matter of memory. I was for a great many years—I bought of the Passaic Rolling Mill Company for a great many years; I bought structural shapes of them.

Q. Did you ever buy from the Phoenix in as early years as 1901 and theretofore?

A. I bought of the Phoenix Iron Company, I should say, at least twenty-five years.

Q. And you mentioned Cambria. Did you ever get quotations or buy structurals from the Pottsville Iron & Steel Company in those days?

A. I could not answer definitely, Mr. Reed; the name is familiar, and I think I did. Let me see; that concern finally went into the hands of a receiver, didn't it?

Q. I don't know.

A. I think I did, but I am not sure. I could not answer that with any definiteness.

Q. You do not remember the particular year, do you?

A. No.

Mr. Reed: That is all.

HANS P. G. NORSTRAND

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Please state your age, residence and place of business.

A. Forty-two years; Albany, New York; general superintendent of Rathbone, Sard & Company.

Q. What is the business of that company?

A. We manufacture stoves and ranges, coal and gas.

Q. How long has it been in business?

A. Eighty-three years.

Q. How long have you been its general superintendent?

A. Since 1906.

Q. Were you connected with it before that time?

A. Yes, in 1904.

Q. In what capacity?

A. The same capacity.

Q. I thought you said you had been connected with it since 1906.

A. I left them.

Q. You were away at something else for a time?

A. Yes; in business for myself.

Q. And then returned to your old love?

A. Yes.

Q. Had you to do for any part of the time with the purchase of its supplies?

A. Yes; that has been in my general charge since I took charge of it.

Q. And by the date of taking charge I take it you now mean 1906.

A. I became the responsible head of the purchasing department then.

Q. I do not understand by your answer, and do not infer from your answer that you had to do with the purchases during your earlier service there.

A. I had. I came with them January 1st, 1904, and left

them in June, 1904, and asked to be released from my position to take over some business that I had of my own.

Q. Your experience then has been almost altogether since 1906?

A. Practically.

Q. Now, what supplies in the way of steel products does that company purchase?

A. We buy sheets, sheet steel, used in gas ranges.

Q. Where did you get them during the first years of your principal service, that is, 1906 and 1907?

A. The American Sheet & Tin Plate Company.

Q. Did you buy at that time on competitive quotations?

A. I do not know; the contract was placed for 1906 before I took charge.

Q. When did you begin to actually place contracts yourself?

A. Practically not until 1908, the requirement for 1908.

Q. What system did you adopt?

A. Sending out inquiries to the various concerns with the names of which I was familiar, and getting competitive prices.

Q. Do you remember what concerns you invited to quote you in that year?

A. In 1908?

Q. Yes, the first time you pursued this practice.

A. Well, the Seneca Iron & Steel Company, the Marshall Iron Company, Parkersburg Steel Company, Follansbee Brothers and the American Sheet & Tin Plate Company.

Q. Did you get quotations from all of them?

A. From all but one.

Q. Which was that?

A. The Seneca did not make the materials that we required.

Q. Were the quotations received from the others alike or variant?

A. Variant.

Q. Did each differ from all the others?

A. That would be a matter of recollection, because the quotations from two concerns were verbal and two were in writing. To the best of my recollection they were all different,

although I would not say if the two that were given verbally were not the same.

Q. Which two were given verbally?

A. The Parkersburg and Follansbee Brothers.

Q. As I understand, your recollection is not positive as to whether they differed?

A. Not positive.

Q. Is it positive as to the other two? There were only four?

A. Yes.

Q. Who got the contract?

A. The American Sheet & Tin Plate Company.

Q. Was that the lowest bidder?

A. No; before I answer that I would like to look at the papers. They were the lowest average bidders. On some material they were the same.

Q. Did you ask quotations on different items?

A. We use various kinds of steel, various finishes, and that is what I had reference to, and also various grades, various thicknesses.

Q. Now, will you answer the question: Did you ask for particular quotations on different items?

A. I do not understand your question.

Q. You just stated that you specified different grades of steel.

A. Different gauges.

Q. Did you ask for a lump quotation or a detailed quotation?

A. Always in detail.

Q. Then, were those quotations that you received all different, on all the articles quoted on, or only on some of them?

A. They were the same on some articles and they were different on most of them.

Q. Were more than two of them the same on any particular article?

A. I don't believe so.

Q. Did you award the whole contract to the American?

A. Yes.

Q. And I understand you that that is because it was the lowest on the average?

A. On the average.

Q. Take the next year, from whom did you invite quotations?

A. I invited quotations from the same people the following year.

Q. Did you get bids from all?

A. No, the next year the Seneca, or one of the concerns I should say, was not considered, because they did not furnish the grade of material that we required; their mills were not equipped to make all the various finishes, so we had quotations from only two that could be considered competitive that year.

Q. Which were they?

A. The American Sheet & Tin Plate Company and Follansbee Brothers of Pittsburgh.

Q. Did you invite quotations from the other three or not?

A. We invited quotations, and I do not remember the reasons why the quotations were not made. They were not made in writing, so far as my records show, and I do not remember whether they were made verbally or not; I take it that they were not.

Q. Have you record evidence of the quotations of the two you refer to?

A. Yes.

Q. What were they?

A. They were different; they varied on practically every article.

Q. Suppose you give the quotation of each on each article? Have you got the original there?

MR. DICKINSON: What is he giving this from?

THE WITNESS: I have the originals.

MR. DICKINSON: Original what?

THE WITNESS: The original letters that I wrote and the original quotations that came back in answer to my letters.

MR. DICKINSON: Let me see them, will you?

MR. LINDABURY: Will you allow him to finish his answer, and he will hand them to you.

MR. DICKINSON: Very well.

By Mr. Lindabury:

Q. The question directs you to give the quotation of each of those two bidders on each article they quoted on.

A. The first article that you come to is a polished sheet 24 gauge.

Mr. Lindabury: One moment; I do not want to prevent the Judge from seeing what he wants to. I have not seen these, Judge. Possibly if you stand up here and look at them and hear the witness testify from them you can get a better idea.

By Mr. Lindabury:

Q. Please continue your answer to the question which directed you to give the quotation of each of the two concerns named on each article.

A. 24-gauge polished sheet was quoted by Follansbee $3.61 per 100 pounds delivered.

The corresponding sheets, 24 Wellsville polished, $3.79.

20-gauge, $3.51, Follansbee.

20-gauge, ditto, $3.69, American Sheet & Tin Plate Company.

24-gauge blue, $3.16, Follansbee.

The same, $2.34, American Sheet & Tin Plate Company.

24-gauge deep stamping steel, $3.06, Follansbee.

24-gauge deep stamping steel, $2.89, American Sheet & Tin Plate Company.

24-gauge special deep stamping steel, cold rolled, $3.26, Follansbee.

24-gauge special, $2.54, American Sheet & Tin Plate Company.

Q. You have given these figures from a lead pencil memorandum, have you not?

A. Yes.

Q. Who made that?

A. I did.

Q. When?

A. I drew that off this noon from these papers (indicating).

Q. What are the papers?

A. And from papers which the representatives of the American Sheet & Tin Plate Company were able to give me of the prices paid on their material at the time that I wanted, as I had failed to take their prices with me from Albany, as I figured that it would be unnecessary for me to go through the files for that purpose, as they would have them all here.

Q. I had supposed that the memorandum was made up entirely from papers in your files. Now tell us to what extent the original papers on your file here show——

MR. DICKINSON: You are referring to 1909, now, are you not?

MR. LINDABURY: Yes; that is right.

THE WITNESS: May I add something?

MR. LINDABURY: Yes.

THE WITNESS: What I said is only partially true of the prices that I received from the representatives here of the American Sheet & Tin Plate Company, because a number of them I had the records of.

By MR. LINDABURY:

Q. Let me put it this way: How many of these quotations from the Follansbee Company have you here?

A. All of them.

Q. How many of the quotations from the American Sheet & Tin Plate Company have you here?

A. Several.

Q. Do you recall just how many?

A. I can not recall. I can count them and tell you.

Q. Can you tell us about how many—whether it is half, a quarter or three-quarters?

A. Oh, more than half.

Q. I think that will be sufficient for the present. Perhaps Judge Dickinson will not think it worth while to spend time over it.

Did you invite quotations for your supplies for the next year?

A. Yes.

Q. I take it, from what you have said, that you had a periodic way of arranging for your supplies; am I right?

A. That is quite right.

Q. How often?

A. We contracted usually once a year.

Q. From whom did you invite quotations for 1910?

A. Per list—Follansbee Brothers; the Seneca Iron & Steel Company—is it necessary for me to read all of these?

Q. No; about how many?

A. About ten.

Q. From how many of them did you get quotations? You may now give the names.

A. Follansbee did not quote. The Seneca quoted; the American Sheet Steel quoted; the Wheeling Corrugating Company quoted; the Thomas Steel Company; the Alan Wood Company; the West Penn Steel Company—they did not quote on all of the requirements——

Q. Were quotations invited on different items?

A. We sent out our inquiries for all our requirements, and we received answers back from those mills only able to make certain articles, on those articles.

Q. Yes, I know. I mean, did you ask for a lump quotation or detailed quotations?

A. Detailed quotations.

Q. I believe you said you always did that. Will you give us the quotations received on each item?

MR. DICKINSON: You are on 1910?

MR. LINDABURY: 1910.

THE WITNESS: I will give you the quotations made on each article at the same time by the different concerns:

26-gauge one-pass Bessemer——

By MR. LINDABURY:

Q. What does that mean—"one-pass"?

A. It means that it passes through the rolls once.

Q. And what was the name of the bidder?

A. The Seneca Iron & Steel Company, $2.56.

Q. Is that the only bid you had on that?

A. At that particular time, yes.

May, 1910—26-gauge galvanized

Seneca Iron & Steel Company	$3.26
American Sheet & Tin Plate Company	3.26

Q. Have you any other bid at the same time?

A. No. October, 1910—24-gauge galvanized

Seneca Iron & Steel Company	$2.81
American Sheet & Tin Plate Company	2.91

October, 1910—18-gauge galvanized

Seneca Iron & Steel Company	$2.66
American Sheet & Tin Plate Company	2.76
Thomas Steel Company	2.68

October, 1910—24-gauge blued

Seneca Iron & Steel Company	$2.31
American Sheet & Tin Plate Company	2.41

Q. Have you the original quotations there for all of those?

A. I won't say that I have until I look through.

Q. What is your recollection as to whether you have all of the Seneca quotations?

A. I have all the Seneca Iron & Steel Company quotations.

Q. And how as to the American Sheet & Tin Plate Company's?

A. I think I have some of them.

Q. Perhaps you had better look through; I think we had better stop long enough for that.

A. I have not any of the American Sheet & Tin Plate Company that I can apply to the figures which I have given you here?

Q. Now, Mr. Norstrand, did you in any cases tabulate these bids after you got them in?

A. Very frequently.

Q. Did you tabulate them for this year 1910?

A. Yes.

Q. At the time you received them?

A. I had them tabulated at that time.

Q. Do you know whether they were correctly tabulated or not?

A. I do.

Q. How do you know that?

A. I checked them over at that time.

Q. Did you make that tabulation before you awarded your contracts?

A. Yes, sir.

Q. And awarded them upon that tabulation?

A. Basing them somewhat upon that.

Q. Have you that tabulation for that year here?

A. I have.

Q. Produce it.

A. Here it is.

Q. Did you use that tabulation in making the memorandum from which you testified in regard to the 1910 quotations?

A. As far as the American Sheet & Tin Plate Company is concerned, yes.

Q. That will do, then, because you have the originals here of the others, have you?

A. Yes.

Q. Mr. Norstrand, did you get any other bids during that year except those from the American Sheet & Tin Plate Company and the Seneca Steel Company which you have already given us?

A. Yes.

Q. What other bids did you get?

A. I got the following bids:

August, 1910—24-gauge galvanized

Wheeling Corrugating Company	$2.76
American Sheet & Tin Plate Company	3.06
Thomas Steel Company	2.83

Q. Did you get any other quotations that year?

A. August, 1910—24-gauge

Wheeling Corrugating Company	$2.41
American Sheet & Tin Plate Company	2.51
Alan Wood	2.63

Q. Did you get any other quotations on any other articles that year, or on the same articles at any different part of the year?

A. Yes, sir.

September, 1910—14-inch open hearth, pickled, cold rolled and re-annealed.

Follansbee	$2.41
West Penn Steel Company	2.61
(Afterwards cut to $2.56)	

American Sheet & Tin Plate Company..... 2.56
(Afterwards substituted a slightly different material at $2.41 to meet competition.)

24-gauge galvanized, 20x95.

American Sheet & Tin Plate Company.....$3.01
Seneca Iron & Steel Company..... 2.91
Thomas Steel Company..... 2.83

Q. Do you know the month?

A. I don't know, offhand.

Q. Did you buy any in 1911?

A. Yes, sir.

Q. From how many concerns did you invite quotations, about?

A. About ten.

Q. From how many did you get quotations?

A. Approximately four or five.

Q. Have you a tabulation of those quotations with you?

A. I have a partial tabulation.

Q. Have you the original data from which you made up the tabulation here?

A. I think so.

Q. You may tell us, if you are able to refresh your recollection by consulting what you have in the way of original data, and independent of it, if you recollect it, what quotations you got on these articles in that year.

A. No.

Q. You do not find it now?

A. No; I can not find it; I find it partially.

Q. Have you a general recollection as to the character of the quotations you received in that year 1911?

A. Yes, sir.

Q. And from about how many did you receive actual quotations?

A. About the same number as in 1910.

Q. And did you invite quotations for your 1912 supply?

A. Just about the same as we had the previous years; sent out invitations to bid to about ten or eleven or twelve concerns.

Q. How many quotations did you receive in response?

A. Quotations that we considered, perhaps five.

Q. And how about 1913?

A. About the same condition.

Q. Did you make search for your quotations for the years 1912 and 1913?

A. I did not.

Q. Why didn't you?

A. I was given to understand that that would not be of any consequence, that you wanted those earlier years.

Q. So that you thought we were not concerned about 1912 and 1913?

A. That is what I understood.

Q. Do you have a recollection as to the run of those quotations for 1911, 1912 and 1913?

A. Very clearly.

Q. Were they the same or did they vary?

A. They varied, more so than they had before.

Q. More than for the years 1909 and 1910, which you have told us of?

A. Yes; that was perhaps due to the fact that we had more inquiries and naturally we would get more variations, because we had developed a larger line of people to get quotations from.

Q. What do you mean by saying that you had developed a line?

A. Developed in our files a larger number that we knew could supply us with part or all of our requirements.

Q. What was the extent of your requirements in the first year you took charge, 1906?

A. Perhaps 150 tons or less.

Q. Has your business grown?

A. In 1913 we purchased 1,600 tons.

Q. 1,200 per cent. or more, it had grown?

A. Yes.

Q. Was there any one of the various items on which you invited or received quotations in 1910, 1911 and 1912 with respect to which the quotations of all or even a majority were the same?

A. I could not answer that.

Q. Because it is too long; let me divide it: Was there any one item on which you invited quotations during those three years, on which all of them bid the same?

A. No.

Q. So far as you recall was there any single item on which a majority who bid bid the same price?

A. Yes.

Q. What was that?

A. Plain black sheets.

Q. Did that occur once or more than once?

A. It occurred at various times; I cannot say just how many times.

Q. During what period?

A. No particular period.

Q. What number or what proportion bid the same price on those occasions?

A. Perhaps half to three quarters. That is an indefinite answer to give offhand, but I cannot make it any clearer.

Q. Did that occur in 1908, 1909 and 1910?

A. To my recollection it always did.

Q. You have not got it on your tabulation, have you?

A. Will you state the question again?

(The original question was repeated by the stenographer, as follows:)

"Q. What number or what proportion bid the same price on those occasions?"

By Mr. Lindabury:

Q. (Continuing) Does the tabulation which you have given us show what you have just testified to as to uniformity?

(At the request of the witness his answer to the repeated question and the following two questions were repeated by the stenographer.)

The Witness: I was in error when I gave my last answer. Will you give the question asked before this one, and my answer to it?

(The last three questions and answers were repeated by the stenographer.)

MR. LINDABURY: Go on and make any correction or any statement you want to.

THE WITNESS: I mean to say this, that there was never a time when we asked for competitive bids on any commodity we bought—and we bought many of them, such as pig iron, coal, coke and various other things—that from a number of bids that were received there was not quite a number that would be the same, that would bid identically the same price. Then there would be some that are higher and some that are lower.

By MR. LINDABURY:

Q. Now, you will observe that you have not yet answered my question, and that is why, if there was agreement as to prices on some of the steel products that you bought, you did not show it on your memorandum, provided it was in the years 1908, 1909 and 1910. That is all. I only want an explanation as to why you prepared a memorandum, and have given it to us here that contained variations, whereas now I understand you that there was some uniformity at least among the bidding on certain of these sheets that we have been talking about.

A. I have not given you all the prices we received in those years, but have picked out the concerns whose bids were considered.

Q. Now, let me see if I understand you. You did not, if I recall, put on your memorandum these black sheets as to which you say you got no bids?

(By request of Judge Dickinson the last answer was repeated by the stenographer.)

THE WITNESS: I have given you some bids of some of the persons I have shown you here.

By MR. LINDABURY:

Q. But those were non-uniform, were they not?

A. It is impossible for me to answer the question you have put to me. If you will refer back to the tabulation that I gave you you will see for instance where in 1910 on this article

14 gauge open hearth there is the same bid from Follansbee and from the American Sheet & Tin Plate Company.

Q. I did not notice that.

A. You will observe further that there is a uniformity on other prices that I have given which I shall not stop to go back over now, which will explain my original answer.

Q. I did not notice that, and that probably is an answer to my last question.

A. It would be extraordinary to my mind if in asking for quotations on sheet steel we should get different prices on every article from every concern we wrote to; that would be unheard of in business life.

Q. Well, I only wanted to get the matter straightened out so that we would know exactly what you intended to say. I find I misunderstood you. Is there any occasion that you recall then when the majority of bids for any particular item were the same?

A. No.

Q. And was this partial uniformity on particular items the usual or the unusual thing?

A. The usual thing. Will you repeat the question?

(The question was repeated by the stenographer.)

By Mr. Lindabury:

Q. (Continuing) You have spoken of partial uniformity up to a half or near it, or something.

Mr. Dickinson: I do not think he used the expression, "partial uniformity."

Mr. Lindabury: No, but I think I correctly interpreted the answer. If you do not understand the question let me reframe it.

The Witness: Yes.

By Mr. Lindabury:

Q. Were these occasions when a large number, perhaps half of the bidders, made the same price on a particular article, were they uncommon or were they common, that is, were they the usual or the unusual occurrence?

MR. DICKINSON: One moment; I object to that because I do not think the witness has used any such expression as "perhaps half."

MR. LINDABURY: No, but I think that is fairly deducible from his answer.

MR. DICKINSON: I do not know that it is; I do not deduce it that way. (To the witness:) You have the question; go ahead and answer it.

MR. LINDABURY: I will take the responsibility for that question.

(The pending question was repeated by the stenographer.)

THE WITNESS: I cannot answer either yes or no, but must repeat what I previously stated, that it is common to get the same quotation on several articles by several of the concerns you invite bids from. The same thing was true of sheet steel.

By MR. LINDABURY:

Q. Did this agreement in quotations from some of the bidders on particular items usually extend to all the items, or to only some of them?

A. Not that I know of did they extend to any one item.

Q. Mr. Norstrand, I think you did not quite catch the question. It is not whether this uniformity of bidding was confined throughout the years to one particular item, but when you found a number of bidders agreeing in price on one of the items on your list, did that agreement extend ordinarily to all the rest of the items, or to only one or a few of them?

A. Do you mean concerns or items?

(The question was repeated by the stenographer.)

THE WITNESS: I never received any quotation that was uniform in the majority of the items throughout.

CROSS EXAMINATION

By MR. DICKINSON:

Q. I want to ask you one or two questions: Were not most of the things you bought, or a large number of them, special brands?

A. None of them were.

Q. Specialties, I mean, as distinguished from the ordinary standard articles?

A. Not any of them.

Q. What do you mean by plain black sheets?

A. The ordinary standard that the base is figured from; what they call a one-pass Bessemer. It is passed through the rolls once. For nicer looking sheets you have to have different finishes. Some of it is three-pass, which is ten cents more per 100 pounds. Some of it is blued by a steam process. That takes ten cents more, and is very common. We use more of it than anything else; blued stovepipe steel.

Q. Is that kind that you use generally quoted in the market?

A. Yes.

Q. Is it specially finished?

A. No more so than you may call the one-pass specially finished. It is just a standard article in the market, one as much as the other.

MR. DICKINSON: Do you mind if Mr. Colton asks a few questions, Mr. Lindabury?

MR. LINDABURY: Not at all.

By MR. COLTON:

Q. Do you use the differential, or have you used at any time the differential of the American Sheet & Tin Plate Company?

A. That and others.

Q. In asking for these bids, did you ask for the differential of the American Sheet & Tin Plate Company?

A. We never asked, because they quoted the prices on the material that we specified, and gave their own differentials.

Q. Did you not ask for the differential of the American Sheet & Tin Plate Company in one of these letters you have right here?

A. Yes.

Q. You have, then, asked for them to quote, giving the differential of the American Sheet & Tin Plate Company?

A. I may have done that with a concern that I have not dealt with before, in order to explain to them what we were after.

Q. And prior to 1909 you have dealt chiefly with the American Sheet & Tin Plate Company?

A. Prior to 1908.

Q. I thought a letter here said it was prior to 1909.

MR. COLTON: That is all.

MR. LINDABURY: That is all.

(Whereupon an adjournment was taken until tomorrow, Wednesday, December 17, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND THIRTY-SECOND DAY

EMPIRE BUILDING,
71 Broadway, New York City.

Tuesday, December 17, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the Defendants, MR. LINDABURY, MR. BOLLING and MR. REED.

ALBERT L. LEHMAN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Pittsburgh.

Q. What is your occupation?

A. Vice-president and general manager of the Blaw Steel Construction Company.

Q. How long have you been vice-president and general manager of that company?

A. Seven years.

Q. What kind of business is it engaged in?

A. In light structural steel work.

Q. You do fabricating, do you?

A. Yes; we fabricate steel forms for concrete construction.

Q. Anything else?

A. Steel poles and transmission towers.

Q. I suppose that you buy structural shapes, do you?

A. Yes, sir.

Q. And plates?

A. Yes, sir.

Q. And do you buy sheets?

A. Yes, sir.

Q. Mostly heavy plates?

A. Heavy and light.

Q. About how many tons of shapes and plates and sheets have you bought this year?

A. About 15,000.

Q. 15,000 tons?

A. 15,000 tons.

Q. Where is your factory or works located?

A. Hoboken, Pennsylvania.

Q. How far is that from Pittsburgh?

A. It is about four miles from the city line.

Q. It is right in the Pittsburgh district?

A. It is right in the Pittsburgh district.

Q. What part of that 15,000 tons has been structural shapes?

A. About 75 per cent.

Q. And what part of it has been plate?

A. About 25 per cent., the balance.

Q. I mean to distinguish between plate mill products and the sheet mill products: are you able to separate them?

A. It would be about half and half, I should judge.

Q. That would be about 12½ per cent. of the total tonnage was plates and about 12½ was sheets?

A. Yes, sir.

Q. We want to confine your attention first, Mr. Lehman, to the structural shapes: Do you buy them on a competitive basis?

A. Yes, sir.

Q. Do you buy on contracts extending over a year or other specified period, or do you buy in lots as you need the material?

A. Both ways.

Q. Before you make a contract or place an order is it your custom to ask for competitive quotations?

A. Yes, sir.

Q. Still speaking of shapes now: Will you tell us what companies you ask quotations from?

A. The Carnegie Steel Company, Cambria Steel Company, and Jones & Laughlin.

Q. They are the principal makers in that district, are they?

A. Yes, sir.

Q. Do the quotations that you get vary or are they all alike?

A. They vary.

Q. How long has that been so, Mr. Lehman?

A. Well, I can distinctly remember for the past three or four years that they have varied.

Q. And is the competition for your business active among these concerns?

A. Yes, sir.

Q. Coming to plates; plate mill products: from what companies do you ask bids?

A. American Sheet & Tin Plate——

Q. I am speaking of plates, not sheets.

A. From Jones & Laughlin.

MR. DICKINSON: Do you cut out the American Sheet & Tin Plate Company?

THE WITNESS: Yes; Jones & Laughlin, Allegheny Steel Company and Cambria Steel Company.

By MR. REED:

Q. Do you ask the Carnegie Steel Company for quotations on plates?

A. Yes, Carnegie.

Q. You named the Allegheny?

A. Yes, sir.

Q. Do you ever ask Lukens or Worth?

A. Yes; we at times buy from both Lukens and Worth.

Q. What kind of times would you buy from mills that were so distant?

A. On quick delivery.

Q. The quotations that you get on plates, do they vary or are they alike?

A. No, sir; they vary.

Q. How long has that been so?

A. The past three or four years.

Q. How about sheets, what companies do you ask to quote to you on sheets?

A. The American Sheet & Tin Plate Company and Allegheny Steel Company on sheets.

Q. Do you find competition there in the same way as you have described in the other?

A. Yes.

Q. Is that competition active?

A. Yes, sir.

Q. I wanted to ask you about the companies that had succeeded in getting your business in this competition; if I correctly recall your answer you started in business about seven years ago?

A. Yes, sir.

Q. At that time where were you getting the most of your shapes and plates?

A. From the Carnegie Steel Company, the American Sheet & Tin Plate Company and the American Steel & Wire Company.

Q. Do the American Steel & Wire Company make plates?

A. At that time they did.

Mr. Dickinson: Could you give the year you first began buying?

A. 1906 and 1907.

Mr. Dickinson: Are you talking about all these things, or what?

Mr. Reed: My question was about shapes and plates.

By Mr. Reed:

Q. You must have included sheets in your answer to give the name of the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. About what percentage of your steel purchases were you giving to these three Steel Corporation companies in those two years?

A. I really do not know. Was your question what per cent. of the amount of stuff we were buying we were giving them?

Q. Yes.

A. Practically all.

Q. Over 90 per cent.?

A. Yes, sir.

Q. Then was there any change in the situation in 1908, Mr. Lehman?

A. A slight change; the change came in 1909 or 1910.

Q. I mean a change in your buying?

A. In our method of buying and the people whom we bought from.

Q. You did not buy quite so much in 1908?

A. No, sir.

Q. How was it in 1909?

A. We were buying material from other concerns, and also from the concerns I have mentioned.

Q. In 1909 what percentage of your purchases of steel were from the Steel Corporation?

A. About 50 per cent.

Q. And in 1910 how was it?

A. Less than 50 per cent.

Q. How much less than 50 per cent.?

A I should judge we probably purchased from them about 30 or 40 per cent.

Q. How about 1911, 1912, and this year?

A. During 1911 and 1912 and this year we bought about ten per cent. of our requirements from the Corporation.

Q. Who has been getting the balance of your business?

A. The Cambria Steel Company, Jones & Laughlin, Allegheny Steel Company; they have been getting the bulk of our business.

Q. Take your shapes alone, Mr. Lehman; what companies have been supplying the most of your shapes during the past three years?

A. Cambria Steel Company and Jones & Laughlin.

Q. What percentage of your shapes have they supplied you?

A. 90 to 95 per cent.

Q. Take it on plates; where have you been getting most of your plates?

A. Our plate requirements are not very heavy; most of our plates are bought from the Cambria Steel Company and Jones & Laughlin and Allegheny Steel Company. We purchase some few from the Carnegie; but very little.

Q. Then how has it been with sheets, Mr. Lehman?

A. Our sheets, the amount of sheets we buy is extremely small; we have been buying most of our sheets, which is a small part of our business, from the American Sheet & Tin Plate Company.

Q. That is a very small tonnage?

A. Yes, sir.

Q. Do you have any competition in the selling of your products?

A. Yes, sir.

Q. Is it vigorous or otherwise?

A. Quite vigorous.

Q. Does the American Bridge Company make the same kind of things that you do?

A. Yes, sir.

Q. Do you compete with them?

A. Yes, sir; on certain lines.

Q. What lines?

A. On towers and steel poles, some structural work.

Q. Are you able to compete very successfully with them?

A. We think so.

Q. You do not find yourself falling away any, do you?

A. No, sir.

Q. Has your business grown much in the last seven years?

A. Yes, sir.

Q. Could you tell us about how much it has grown?

A. We started seven years ago without any business. What do you want; figures? What do you mean, in what way has it grown?

Q. If you have grown from nothing to 15,000 tons, I guess it is a pretty big percentage of growth?

A. Yes, sir.

CROSS EXAMINATION

By Mr. Dickinson:

Q. In the last three years practically all of your purchases have been from concerns who manufacture in the State of Pennsylvania, and the deliveries have been made by them to you in the State of Pennsylvania, isn't that true?

A. Yes, sir.

Q. Now, back of that would that be the same?

A. Yes, sir.

Q. Now, the year 1913: have you had any written contracts with any of the subsidiaries of the United States Steel Corporation?

A. We probably have with the American Sheet & Tin Plate Company and the Carnegie Steel Company.

Q. How many with the American Sheet & Tin Plate Company?

A. Probably one.

Q. How many with the Carnegie?

A. I am not positive whether we have any contract with the Carnegie. If we have a contract it would be one for the first six months.

Q. If you had a contract, who made it?

A. It would be made by our purchasing agent, with my approval.

Q. Do all of them come before you for approval?

A. When we place the contracts, they usually come up to me for approval on price and terms.

Q. You can not tell whether you have a contract of that sort in 1913 with the Carnegie or not?

A. I can not tell at this time.

Q. You can not tell whether you have more than one with the American Sheet & Tin Plate Company?

A. I don't believe we have more than one.

Q. When was that with the American Sheet & Tin Plate Company made, if you know?

A. Probably prior to January 1, 1913.

Q. What commodity did it cover?

A. Light sheets.

Q. What tonnage?

A. Nothing in excess of 500 tons.

Q. Was there a maximum and minimum?

A. I don't remember. When these contracts are closed, they are brought up to me, simply to pass on the price, and our requirements for six months; and on light sheets we probably buy all we need from the American Sheet & Tin Plate Company.

Q. The purchasing agent does all the negotiation, and he simply passes the contract up to you to approve, if the price is satisfactory?

A. Yes.

Q. Is that all you have to do with it?

A. I don't understand what you mean.

Q. I just want to know what, personally, you had to do with that contract that you say you made about January 1st with the American Sheet & Tin Plate Company.

A. I would pass on that contract as to price, as against the balance of the quotations he had received. I would examine the price of the American Sheet & Tin Plate Company contract, together with other prices he had received, and tell him where to place the contract.

Q. Then you determine where it should be placed?

A. Yes, sir.

Q. I believe you said you could not tell whether there was a maximum and minimum tonnage in that?

A. I could not.

Q. What price was it placed at?

A. I don't remember that, either.

Q. Who else quoted on it, and what did they quote?

A. Every manufacturer in the Pittsburgh district—every mill in the Pittsburgh district would probably quote on the material.

Q. I am not asking you about what probably happens, but I am just asking you what you remember that did happen. On that particular contract just tell us what concerns you can remember now quoted, and what they quoted.

A. I don't remember.

Q. Can you name any concerns that you remember now did make quotations on that tonnage?

A. Not on light sheets, I could not.

Q. What other concerns have you contracted with this year on light sheets?

A. Nobody.

Q. What written contracts have you had this year on shapes, and with what concerns?

A. With Jones & Laughlin; and I am not sure whether there is a contract for shapes with the Carnegie Steel Company or not; but we are buying some shapes from them.

Q. Is that all?

A. That is all.

Q. How many contracts have you had with Jones & Laughlin?

A. One covering the first six months of the year.

Q. Is that all?

A. And either an extended contract or a new contract covering the last six months of the year.

Q. Do you know whether that last one was an extended or a new one?

A. I think it was a new one. They usually cancel out the contract. I think it is a new contract.

Q. When was that done?

A. Prior to July 1.

Q. How long prior?

A. Thirty days; from 10 to 30 days.

Q. That is, from 10 to 30 days before July 1st?

A. Yes.

Q. Do you say that you know that was a new contract, or that it was an extension? Which?

A. I think it was a new contract.

Q. What tonnage did that cover?

A. About 5,000 tons.

Q. What tonnage did the first one cover?

A. Probably the same amount.

Q. What have been your requirements in shapes for 1913? What has been your total purchase in shapes for 1913?

A. About 15,000 tons.

Q. When was this first contract made with Jones & Laughlin?

A. Prior to December 31, 1912.

Q. How long prior?

A. Probably a month.

Q. Along about December 1st?

A. Around December 1st, probably.

Q. Did you direct the making of that contract?

A. I directed that the contract be given to them.

Q. Was there a maximum and minimum tonnage?

A. I don't remember.

Q. What was the base price under that contract?

A. I don't remember that either; probably $1.40.

Q. Was that delivered at your place?

A. Yes, sir.

Q. The seller paid the freight?

A. Yes.

Q. On that particular contract what concerns do you now remember bid on that tonnage that was awarded in that contract, and what were the bids respectively?

A. I don't know their respective bids, but Carnegie, the Cambria, Jones & Laughlin.

Q. Do you recall, as a matter of fact, that the Cambria did bid on that?

A. Yes, sir.

Q. And that Carnegie did?

A. Yes, sir.

Q. Did they bid on a particular tonnage?

A. Yes, sir; I think so.

Q. Did you solicit Jones & Laughlin, or did they come to you?

A. They came to us. They knew we were making contracts for the next six months.

Q. Who came to you to negotiate that contract?

A. Of Jones & Laughlin?

Q. Yes.

A. Mr. Semple.

Q. What are his initials?

A. I don't know them.

Q. Where was it negotiated?

A. At our office.

Q. Did he give you a price before he came and made that negotiation?

A. He had been giving the purchasing agent prices.

Q. How long before that?

A. Probably two or three weeks. I don't know exactly.

Q. You do not know?

A. No, sir.

Q. Had he given more than one price?

A. I don't know that either.

Q. Do you know what the prices were?

A. Not until the final price came up to me.

Q. You don't know, then, what quotations had been made to the purchasing agent by any of the several concerns before the final price came up to you?

A. I know that Carnegie quoted a dollar higher than Jones & Laughlin, and the Cambria two or three dollars higher than Jones & Laughlin.

Q. Well, was that on the first quotation that was made by each, or what?

A. That I do not know.

Q. You do not know what the first quotations were?

A. No.

Q. Don't you know whether they were all alike or whether they differed?

A. I do not know.

Q. Take the second contract you made with Jones & Laughlin; do you know what the first quotations there were in 1913?

A. No, I don't know the exact figures, but they were under the price of the other bids submitted.

Q. I am not speaking now of the price at which the contract was made, or the prices got by negotiations, but mean the first quotations that were made on the proposition of your letting that tonnage, as to the second contract; do you know what the original quotations were?

A. I do not.

Q. Do you know whether they were alike or unlike?

A. I should say not.

Q. Now, do you know the original quotations for any of the last three years on any of your purchases?

A. No.

Q. Do you know how many were alike and how many were unlike?

A. I don't know.

Q. Well, would that apply to shapes, plates, sheets and structural?

A. That would apply to everything.

REDIRECT EXAMINATION

By MR. REED:

Q. When you say that the Carnegie was a dollar higher and the Cambria was two or three dollars higher, you mean so much higher per ton, do you?

A. Yes.

Q. You are speaking of the bid per ton and not the aggregate bid?

A. No, per ton.

Q. You spoke of different sheet mills in the Pittsburgh district having quoted to you; as I remember it, the only companies from which you said you had bought sheets were the Allegheny Steel Company and the American Sheet & Tin Plate Company?

A. Yes.

Q. Have other sheet mills quoted to you and tried to get your business?

A. Yes; a good many of them.

Q. Well, give us the names of some of them that have tried for it?

A. That I do not know.

Q. Do you happen to know whether Jones & Laughlin have ever quoted to you on sheets?

A. Yes, on No. 10 gauge—as low as No. 10, and also on No. 10 gauge.

Q. Is that a plate mill product?

A. Yes.

Q. Have Follansbee ever sent you quotations?

A. Yes, they have, but the amount of our sheet business is extremely small.

Q. I just wanted to get the names of some of them. Has the American Rolling Mill Company ever quoted to you on sheets?

A. I think not.

Q. They are in Zanesville and Middletown, Ohio?

A. Yes.

Q. They do not come into your district?

A. No.

Q. How about the West Penn Steel Company?

A. They probably have quoted, but we do not buy there.

Q. Has the Apollo Iron & Steel Company quoted to you since it started in business, recently?

A. Yes.

Q. Has the DeForest Sheet & Tin Plate Company tried it?

A. I do not know.

Q. You do not know?

A. No.

Q. How about the Seneca Company?

A. I do not know about them.

Q. Or the Youngstown Sheet & Tube Company?

A. I don't know about that; they probably have quoted, but we do not buy much stuff there.

Q. Or the Youngstown Iron & Steel Company?

A. I think not.

Q. There are plenty of sheet mills in your neighborhood?

A. Yes.

Q. Tell us about those companies from which you have been getting the bulk of your sheets; how far from your works is the nearest sheet mill of the American Sheet & Tin Plate Company?

A. I do not know.

Q. They have a big mill at New Kensington, haven't they?

A. That is probably where they would ship to us from, the New Kensington plant.

Q. How far is that from you?

A. About ten or twelve miles.

Q. How far from you is the plant of the Allegheny Steel Company?

A. About the same distance, ten miles up.

Q. They are both right in the Allegheny Valley, are they not?

A. Yes.

Q. And your plant is located in the Allegheny Valley?

A. Yes.

CHARLES G. TAYLOR

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Taylor, where do you live?

A. 820 Chislett street, Pittsburgh, Pa.

Q. What is your occupation?

A. Assistant purchasing agent of the Westinghouse Electric & Manufacturing Company.

Q. How long have you been assistant purchasing agent of that company?

A. I should say since 1895.

Q. How long have you been in that department of that company?

A. About 25 years.

Q. You have had the title of assistant purchasing agent since 1895?

A. Yes.

Q. Tell us in a few words what kind of business the Westinghouse Electric & Manufacturing Company does.

A. They are manufacturers of electrical machinery, such details as are necessary with that line of business.

Q. Do they do a large business?

A. Yes, sir.

Q. Could you tell us what, in money, their annual turnover amounts to at the present time?

A. Of course my connection with the company does not give me those facts, but I could say about $40,000,000.

Q. That is the amount of their gross sales?

A. Yes, sir.

Q. Annually?

A. Yes, sir.

Q. The company uses some steel, I presume?

A. Yes, sir.

Q. Of what varieties principally?

A. Principally bars and sheets.

Q. Do you use any wire?

A. Yes, sir; that is, copper wire, not steel.

Q. You do not use much steel wire?

A. Not much steel wire.

Q. The principal steel purchases are bars and sheets?

A. Bars and sheets and plates.

Q. What kind of sheets do you buy?

A. We use what we term "electrical sheets," and we also use the ordinary Bessemer sheets.

Q. What are "electrical sheets"?

A. Electrical sheets are sheets that are made especially for the electrical industry, better known as silicon sheets.

Q. Are these electrical sheets annealed?

A. Yes, sir.

Q. Not galvanized?

A. No. Of course we do use some galvanized sheets.

Q. But that is not a considerable amount?

A. No.

Q. How about these Bessemer sheets, as you call them; that is a black sheet?

A. Yes, a black sheet; blue annealed.

Q. Can you tell us the approximate quantity of bar steel that you buy annually?

A. Over 1,000 tons.

Q. And the approximate quantity of sheets of all kinds that you buy?

A. Over 3,000 tons.

Q. And approximately what quantity of plates do you buy?

A. Over 1,000 tons.

Q. And as to this insulated copper wire and bare copper wire?

A. Over 1,000 tons.

MR. DICKINSON: That might mean 100,000; is that approximately right?

MR. REED: I asked him for the approximate figures.

By MR. REED:

Q. Do you buy on a competitive basis, Mr. Taylor?

A. Yes, sir.

Q. And do you ask quotations before you place your orders?

A. Yes, sir.

Q. What kind of orders do you usually give?

A. In some instances we make contracts, depending on market conditions; and other times we may buy just as our requirements may demand.

Q. It depends largely on the condition of the market?

A. Yes, sir.

Q. But before you either make a contract or place an order for bars, say, from what companies will you ask quotations?

MR. DICKINSON: This is on bars, now?

MR. REED: This is on bars; yes, sir.

THE WITNESS: We would ask for prices from the Carnegie Steel Company, Jones & Laughlin, Republic Iron & Steel Company, Cambria, and some of the lesser companies; some of the smaller ones. We do buy from some of the smaller ones, the Union Drawn Steel Company, Columbia Shafting Company. I could name a number, but I think those are the principal mills.

By MR. REED:

Q. There are quite a number of concerns in the Pittsburgh district that operate bar mills, aren't there?

A. Yes, sir.

Q. Do the quotations that you receive in reply to such an inquiry vary or are they uniform?

A. They do at the present time.

Q. They vary?

A. Yes, sir.

Q. How long has that been so, Mr. Taylor?

A. Well, of course there have been times when that was not the condition, during the time when we understood there were associations, and so forth.

Q. You heard about the shafting pool, did you, back in 1904?

A. Yes, sir.

Q. You knew of its existence?

A. Yes, sir.

Q. I suppose there was not much variation then, was there?

A. No, sir.

Q. Since that time have you found variations?

A. Yes, sir; we have.

Q. About what percentage of your bar purchases have you got from the Carnegie Steel Company in the last few years, the last five or six years, say?

A. I do not know that I could say absolutely in the last five years, but I have gone back over some of that information. I should say that we have bought more than half from the other mills.

Q. You bought less than half of your purchases of bars from the Carnegie Company?

A. Yes, sir.

MR. DICKINSON: What years were those?

THE WITNESS: I would say definitely 1912 and 1913.

By MR. REED:

Q. Now, on plates: what companies do you ask for quotations?

A. Lukens, Worth Brothers, Carbon Steel, Carnegie Steel Company.

Q. Any others?

A. Those are the principal ones; those are the larger mills.

Q. Do you ask quotations from Jones & Laughlin?

A. I don't think we do any business—I don't think we have done any business with them on plates. (After examining memoranda:) Yes, we have.

Q. That is, Jones & Laughlin?

A. Yes, sir.

Q. You named the Cambria, didn't you?

A. No, sir.

Q. Do you ask them for quotations?

A. Cambria? I think not on plates.

Q. Do the quotations on plates vary?

A. Yes, sir.

Q. Did you know of the plate pool when it existed, along in 1900 to 1904?

A. Yes.

Q. That was common knowledge in the trade, wasn't it?

A. Yes, sir.

Q. Since 1904 have prices varied in this same way?

A. I will make the answer to that in the same way, that I have gone back over this thing only approximately two years, and I would say that they do vary; the prices have varied.

MR. DICKINSON: You are speaking now for two years?

THE WITNESS: Yes, sir.

By MR. REED:

Q. What is your recollection for the years preceding that?

A. I should say that on plates the same is true; that since the dissolution of that pool there have been fluctuating prices.

Q. Those pools were commonly talked about in the Pittsburgh papers, were they not?

A. Oh, yes, sir.

Q. Now, as to sheets, Mr. Taylor, both black and electrical sheets: From what companies have you been asking quotations on them?

A. From the American Sheet & Tin Plate Company, the American Rolling Mill Company——

Q. Where are they?

A. Middletown and Zanesville.

Q. What others?

A. The Seneca Iron & Steel Company, at Buffalo; the Brier Hill Steel Company, of Niles, the DeForest Sheet & Tin Plate Company.

Q. Did you ever ask quotations of the Wheeling Corrguating Company?

A. Not on black sheets.

Q. How about electrical sheets.

A. Nor electrical sheets.

Q. Only on galvanized?

A. Only on galvanized.

Q. Do you ever ask Follansbee to quote?

A. On some special sheets that they do furnish us, more in the nature of a specialty.

Q. Do you ever ask Allegheny Steel?

A. No.

Q. Or West Penn Steel?

A. No.

Q. Apollo Iron & Steel—a new concern up near Apollo?

A. No.

Q. How do you find quotations on sheets—variant or uniform.

A. There is variation in the price of sheets.

Q. How long has that been so?

A. Since the dissolution of the Association, whatever they had, at the time—there was a time when prices were pretty much the same.

Q. That is a good many years ago, is it not?

A. Yes, sir.

Q. Now, as to wire; tell us what companies you ask quotations on wire from?

A. The American Brass Company, the American Steel & Wire Company, the Ansonia Electrical Company, the American Electrical Works, the Rome Wire Company and the Rome Electrical Works,—two concerns.

Q. And Roebling?

A. Roebling, Alfred S. Moore, the Standard Underground Cable Company, the Safety and Insulated Wire & Cable Company, the Electric Cable Company, B. F. Goodrich Company, and then there are some smaller ones; but those are the principal ones.

Q. Did you know of the existence of the Jackson pools in insulated wire?

A. Yes.

Q. Since 1909 have you had variations in prices in insulated wire?

A. Yes.

Q. Prior to 1909 what was your experience?

A. We were aware of the fact that that pool existed and prices were uniform, with the people that were members of the pool. There were some that we knew that were on the outside of the pool.

Q. How did their quotations range—the quotations of these outsiders?

A. We found that they usually followed pretty close to the prices that were fixed by the pool, but there were times, depending upon the conditions, when we could make better prices with the independent people than we could with the members of the pool.

Q. Did you distribute your purchases, some in the pool and some outside?

A. We were obliged to do that, because our business made that necessary.

Q. I neglected to ask you what percentage of your wire you got from the American Steel & Wire Company.

A. Less than half.

MR. DICKINSON: At what time are you speaking of?

By MR. REED:

Q. That is at the present time?

A. Yes.

MR. DICKINSON: You mean this year?

THE WITNESS: Yes; this year and 1912.

By MR. REED:

Q. For how long has it been true that you have been getting less than half from the American Steel & Wire Company?

A. That is at all times.

Q. I neglected also to ask you what proportion of your sheets you have been getting from the American Sheet & Tin Plate Company.

A. I would make the same reply—less than half.

Q. And has that been so for some time in the past?

A. For some years that has been so, yes, sir.

MR. DICKINSON: In order to save some examination, Mr. Reed, could you not ask him a little more definitely than "less than half"; because that might be one per cent. or 49½ per cent.; does he mean approximately half, or what? I do not like to leave such a wide range as that. Of course I can ask him that myself on cross examination, if you do not want to do it now.

By MR. REED:

Q. How definitely can you speak on that?

A. I cannot really be very definite, because I have no figures. To go back over that time and give you any definite figures on that would be pretty hard for me to do.

Q. That is why you are unable to make any definite statement of percentage, is it?

A. Yes; that is true.

Q. In these products that you have mentioned, bars, sheets and wire, is the competition for your business active?

A. Yes, sir.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You spoke of a sheet association when all your quotations were about the same. Give me the period over which that sameness of quotations of those who were in this association continued?

A. I should say that that was during the period of 1907 and 1908, that I noticed that there was a tendency for the mills to quote about the same price at that time.

Q. Name some of those who bid during that time.

A. The same people that I mentioned.

Q. The American Sheet & Tin Plate Company you named among others?

A. Yes.

Q. You spoke of pools in copper wire?

A. Yes.

Q. You were not in the secret councils, of course, I assume?

A. No, sir.

Q. You do not know actually when that did break up?

A. Only by reports, of course, as we read them in the newspapers.

Q. Speaking by years, how long did this uniformity of prices continue?

MR. REED: In what, Judge?

MR. DICKINSON: Copper wire, insulated copper wire.

THE WITNESS: I do not know that I could answer that very definitely. I would say, if I remember rightly, that that was somewhere in 1909 that that pool was dissolved; I am not so sure about the date.

By MR. DICKINSON:

Q. It may have been 1911, may it not?

A. Yes; it may have been 1911; I do not really remember what those dates were, but I should say that for one year at least prior to that time there was that uniformity in prices.

MR. REED: Prior to the time of dissolution.

THE WITNESS: Yes.

By MR. DICKINSON:

Q. Now, on plate pools, during what period was there uniformity of prices of those who quoted you? Give me the years over which that uniformity was exhibited by the prices you got?

A. I could not answer that definitely.

Q. Wasn't it over several years?

A. During the time that the uniformity existed?

Q. Yes.

A. I could not answer that; I do not know.

Q. Well, it was between 1901 and 1905?

A. I would not answer that on plates definitely. I did not handle that. That was a branch of the work that I did not personally have much to do with, so that I really do not know much of the facts concerning plates.

Q. Then you do not know anything about variation in prices on plates quoted?

A. I do during 1912 and 1913.

Q. But back of that you do not?

A. Back of that I do not.

Q. And you have not intended to speak of variations in prices prior to that?

A. Not on plates.

Q. On bars; what have you had to do with the purchasing of bars?

A. On bars in the last few years there have been fluctuations in the prices of bars.

Q. Did you have to do with the purchases of bars prior to that?

A. Of course we had in our department.

Q. I mean you.

A. Not personally I did not, but I know from my knowledge of the prices that were quoted during the time of the shafting pool that there was a uniformity in prices.

Q. That shafting pool existed after 1901?

A. Yes.

Q. And how far down?

A. I cannot fix that date, as to when that pool was dissolved.

Q. Well, it was a period of several years, was it?

A. Yes, sir.

Q. After 1901?

A. After 1901.

Q. Which was your largest purchase of these things that you have described, in copper wire, plates, sheet or bars, in money?

A. Copper wire.

Q. Wasn't that by far the largest?

A. Copper wire and electrical sheets, if I might classify the two together, those two would be the largest. How they would compare I have no figures to show electrical sheets or copper wire, but I am inclined to think that copper wire would be the largest.

Q. You spoke of your turn-over; that means your whole business?

A. Yes.

Q. That means your machinery in finished form?

A. Yes.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Taylor, you said there seemed to be more steadiness in the bids on sheets in 1907 and 1908. How do you recall that particular time?

A. Simply because—this is on sheets?

Q. Yes.

A. Well, there was a natural tendency at that time in the steel business to have prices more uniform than there was during the last two years.

Mr. Dickinson: What do you mean by the last two years?

The Witness: 1912 and 1913.

By Mr. Reed:

Q. I want to ask you about that time in 1907 and 1908; was that a time of much prosperity around Pittsburgh?

A. 1907 and 1908 were not.

Q. The latter part of 1907 had some signs of depression in it, had it not?

A. Yes; I remember that very well.

Q. What happened to your company about that time?

A. We went into the hands of a receiver.

Q. That was a time when payrolls were being met with clearing house certificates, was it not?

A. Yes, sir.

Q. Was the demand for steel in the latter part of 1907 and the first part of 1908 up to the capacity of the mills?

Mr. Dickinson: I object to that because it has not been shown that the witness is an expert and knows the capacity of the mills or how they were running. I object to that as incompetent.

The Witness: No.

By MR. REED:

Q. Were there any people around Pittsburgh at that time who feared the continued solvency of its manufacturing concerns, other than your company?

A. I can answer for our own company. I know that there were grave doubts as to whether we were going to continue or not.

Q. The whole town was pretty well scared, was it not?

A. Yes.

Q. How long was it that your payrolls were being met with clearing house certificates?

A. I cannot answer that definitely, but that continued over several months.

Q. Did the action of the steel companies in refusing to slaughter prices at that time to get what little business there was have any effect for good or bad upon the business situation?

MR. DICKINSON: That is objected to because it is not shown that the witness is an expert on economics; it is not shown that he testified that the steel companies refused to slaughter prices, or that he knows anything about the question of slaughtering prices.

MR. REED: Will you answer?

THE WITNESS: I really do not believe I am qualified to answer that question.

By MR. REED:

Q. How long did your company continue to be in the hands of a receiver?

MR. DICKINSON: That is objected to as irrelevant.

By MR. REED:

Q. Will you answer the question, please?

A. I think it was in 1909. I think we went into the hands of a receiver in 1907, and the receivership was lifted in 1909, but I would not be sure of that date.

Q. When were the receivers appointed, of your company?

A. 1907.

Q. In November, 1907?

A. October, 1907.

Q. How long before the failure of the Knickerbocker Trust Company, if you remember?

A. I don't remember.

Q. A few days, was it not?

A. I think our receivership was prior to the Knickerbocker Trust Company failure.

Q. Are there many companies in Pittsburgh that are larger than yours?

A. No, not so many.

Q. Are there as many as half a dozen that are as big?

A. Not more than that, I should say.

Q. Do you happen to remember how many millions of dollars your company owed at the time it went into the hands of a receiver?

MR. DICKINSON: I object to that as irrelevant.

THE WITNESS: I do not know.

By MR. REED:

Q. Do you know approximately how much?

A. No.

Q. A great many millions, was it not?

A. Yes.

MR. REED: That is all.

RECROSS EXAMINATION

By MR. DICKINSON:

Q. In 1907 or 1908, do you know at what percentage of their capacity either the Carnegie or the Republic or Jones & Laughlin or Cambria, or any of these other concerns, were running in making steel products?

A. No, sir.

Q. You have no information about that, one way or the other.

A. No, sir.

Q. Whether they were running at full capacity or less than capacity?

A. No, sir.

By MR. REED:

Q. How was the business of your company the first six months in 1908, Mr. Taylor; good or bad?

A. Bad.

Q. Was it just plain bad or very bad?

A. Very bad.

By MR. DICKINSON:

Q. Your company did not manufacture iron or steel products?

A. No, sir.

CLARENCE L. CAMPBELL

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. New York City.

Q. What is your business?

A. Purchasing agent of the Corn Products Refining Company.

Q. How long have you occupied that position?

A. Since March, 1909.

Q. In what business is the Corn Products Refining Company engaged?

A. Manufacturing glucose, Karo syrup, starch, and a great many other similar products.

Q. Is its production considerable?

A. Very large, I should say.

Q. Could you give an idea of its size, in value, tonnage, or any other way? Value probably would be the best.

A. Well, I have nothing to do with the figures in that department.

Q. No matter; I withdraw the question. I don't want you to give hearsay or guesses. What do you purchase?

A. I purchase about $10,000,000 worth of supplies annually, covering packages, machinery, lumber——

Q. Never mind about that. Do you include in your purchases any steel products?

A. Yes, sir.

Q. What?

A. Tin plate, chiefly.

Q. Are your purchases outside of tin plate considerable, in steel products, or not?

A. No, sir.

Q. Then I will ask you only about tin plate. How long have you been purchasing tin plates?

A. Since March, 1909. That is, I personally have been purchasing it since then.

Q. Were you the purchasing agent before that date for your company?

A. I was for the eastern part of the country. In March, 1909, our purchasing department, eastern and western, was consolidated and put in my charge.

Q. Did you have to do with purchasing tin plate before that time?

A. No.

Q. Have you purchased all the tin plate for your company's use since that time?

A. Yes, sir.

Q. Have you any records of the prices paid or quantities purchased for any year before you became purchasing agent?

A. Yes, sir.

Q. For what year or years?

A. I have a memorandum here and I can tell you better if I may look at it.

Q. Just answer the question as to the year or years.

A. I have a record of the quantities used in 1909. I have a record of all the contracts, I think, that were ever made by the company.

Q. When was the plate used in 1909 contracted for; before or after you became purchasing agent?

A. I think the majority of it was purchased before I became purchasing agent.

Q. What quantity did your company purchase in the years 1909 and afterwards?

A. Well, I made my record to cover the quantities used, sir, which would be very nearly the same, of course.

Q. Give the quantities used in each year, then.

A. In 1909 we used 269,839 base boxes.

In 1910, 330,845 base boxes.

In 1911, 309,460 b ases boxes.

In 1912, 286,901 base boxes.

For the first ten months of 1913, 213,000 base boxes.

Q. Are you familiar with the Iron Age quotations on tin plate?

A. Yes, sir.

Q. Have you compared those prices with the prices your company has actually paid during these years?

A. Yes, sir.

Q. How do they compare—generally, now?

A. We have paid between five and ten cents less than the Iron Age prices.

Q. What do you mean by five and ten? Has there been a variation?

A. Yes, sir.

Q. And the variation has been between those figures?

A. Yes, sir.

Q. How long has your company been purchasing tin plate?

A. The first contract that I find any record of was made in September, 1907.

Q. In what year were the company's plants completed in which it used tin plate?

A. About that time; the latter part of 1907, I should say.

Q. Are those plants variously located?

A. Yes, sir.

Q. Have you any record of the concerns from which you have bought tin plate since you have been purchasing?

A. Yes, sir.

Q. Can you give them?

A. There are five.

Q. Are you able to give them in the order of the largest purchases?

MR. DICKINSON: Does this cover the years since he has been purchasing agent, or does it go back of that?

MR. LINDABURY: Perhaps I had better find out before he answers.

By MR. LINDABURY:

Q. Is the record that you say you have made up entirely since you became purchasing agent, or does it include the period before that?

A. You mean the record as regards the concerns from whom we have purchased?

Q. Yes.

A. Yes; since I have been purchasing.

Q. Please give them, now, in the order, if you have them arranged that way, of the quantity.

MR. DICKINSON: And will you give the years?

MR. LINDABURY: No; this is for the whole period.

MR. DICKINSON: That is, the period from 1909 up to the present time?

MR. LINDABURY: Yes.

By MR. LINDABURY:

Q. By the last question I mean give, if you are able to, first the name of the concern from which you have purchased most largely, and then on down the list, ending with the one from which you have made the fewest purchases.

A. I have the names arranged in that order, and they are as follows:

The National Enameling & Stamping Company, Jones & Laughlin, the McKeesport Tin Plate Company, the Pope Tin Plate Company, the Washington Tin Plate Company.

Q. Have you at hand the quotations that have been received by your company from these concerns from time to time?

A. I have some of them.

Q. Where are the rest?

A. They are probably filed away with our old records at our different factories.

Q. How happens it that you have those which you do have?

A. In recent years we have tried to make it a practice to

always keep our tabulated bids atached to the contracts that we make. Before we started that the bids became scattered and went into the correspondence files, and were boxed up and stored away in our record rooms.

Q. When did you begin the practice of attaching the bids to the contracts?

A. Well, that would be hard to give—a definite date.

Q. Can you tell when it was?

A. I find one contract here that we have the bids for in 1909; another one in 1910; but there are some contracts that have been made in between that the bids are missing from.

Q. You do not find them?

A. Perhaps this scheme was not followed out quite as carefully as it should have been.

Q. You mean, at the beginning?

A. The keeping of those things all together, yes.

Q. Do you find any memoranda showing the bids received on any contract before you became purchasing agent?

A. Yes, sir; on one contract.

Q. What is the character of that memorandum?

A. It shows——

Q. No, not what it shows, but in whose handwriting is it?

A. It is in the handwriting of my predecessor.

Q. What was his name?

A. G. W. Powers.

Q. As of what date?

A. January, 1909.

Q. Is that the only thing of the kind you have before you became purchasing agent?

A. Yes, sir.

Q. What does that memorandum show with respect to quotations?

Mr. Dickinson: I object to this on the ground that this witness did not make the memorandum and that the sources from which it was made are not shown, and the memorandum itself is secondary and incompetent.

(By request of the witness the stenographer repeated the pending question.)

By MR. LINDABURY:

Q. First give the exact date, if you have it.

A. It was January, 1909. Five bids were asked for and four were obtained.

Q. Now, give the bids, together with the name of the bidder.

A. I have not made a memorandum of the name of the bidder here on this list.

MR. LINDABURY: No matter; then give what you have.

MR. DICKINSON: Excuse me a moment. I thought he was reading from that original memorandum.

MR. LINDABURY: Have you a memorandum?

THE WITNESS: Yes, I have.

By MR. LINDABURY:

Q. Have you got it with you?

A. Yes.

Q. Perhaps you had better refer to it; by that you can give the name of the bidder?

A. Yes.

Q. Perhaps you had better do that.

MR. DICKINSON: I renew the objection.

MR. LINDABURY: Apparently he has a memorandum that he had made up.

THE WITNESS: I recognize this man's handwriting, so I am able to identify it.

MR. DICKINSON: You mean you are able to identify it as his handwriting?

THE WITNESS: Yes. I would like to have the names of the bidders kept out; I do not like to disclose any confidential information.

MR. LINDABURY: That brings up a practice that I remember was observed a few days ago, with another witness.

MR. DICKINSON: He can write it out, if he wants to.

MR. LINDABURY: The witness said he would rather not give the names of those, or the bids.

THE WITNESS: Can I just give it to the gentleman as it stands?

MR. DICKINSON: I would like to see it, and I may have to ask you something about it.

THE WITNESS: Very well.

MR. LINDABURY: Now, you can hand the whole thing to the stenographer, with the names of the bidders, as I understand, and the amount of their bids.

THE WITNESS: Yes.

MR. LINDABURY: On the January, 1909, specification?

THE WITNESS: Yes.

MR. LINDABURY: I think you had better not stop long enough to write it out, because you have to give it to Judge Dickinson, you know. It is understood that this memorandum the witness makes will be marked as a special exhibit and put in the book with the special exhibits.

By MR. LINDABURY:

Q. I think, instead of pursuing the course directed in my question a moment ago, you may give an exact copy of this memorandum to the stenographer.

A. Yes.

Q. Now, I will ask you whether or not that is made up on a Pittsburgh base?

A. No, sir; it is not.

Q. What was it, the price delivered at your different factories?

A. Yes.

Q. There are letters here "G. C." and "Dav." What are they?

A. "G. C." stands for Granite City, Illinois.

Q. Which is——

A. One of our factories.

Q. The place of one of your factories?

A. Yes; and "Dav." stands for Davenport, Iowa, which was formerly one of our can factories.

Q. Which was at this time one of your can factories?

A. Yes.

Q. In order to reduce it to Pittsburgh base, what is it necessary to do? What change is it necessary to make?

A. Deduct 24 cents for Granite City and 30 cents for Davenport.

Q. What do they represent, the freight rate?

A. They represent the freight rate, plus a small amount to cover the freight on the wooden box around the plate.

Q. The freight rate from where?

A. From Pittsburgh or the Pittsburgh district.

Q. So that by making these deductions you reduce it to the Pittsburgh base?

A. Yes.

Q. Now, will you attach to the copy of this memorandum which you give to the stenographer a memorandum made up by yourself reducing the figures to the Pittsburgh base?

A. Yes. I have it here in typewriting.

Q. Never mind; it will take more time than I want to spend. If you will, you might do it at lunch time.

A. If you like, I can write the Pittsburgh price right on there.

Q. No, never mind. Now, just look at this memorandum carefully and tell me whether it has been altered in any way since it came into your possession.

A. I marked the letter "A." on here to identify it, and I also marked on it the following: "Part of the contract, January 27, 1909."

Q. Is there anything else on it that is not in the handwriting of the gentleman you referred to? Just look at it.

A. No—oh, pardon me; there is too. I made a mark "Error" after the 22½ cents, because it is an error.

Q. You mean you marked the word "error"?

A. I wrote the word "error" and put an arrow pointing to 22½.

Q. That is the only alteration that you made there?

A. Yes.

Q. The 22½ was there?

A. Yes.

Q. What is the error about that?

A. He should have added 24 cents instead of 22½ to take care of the freight on the wooden boxes.

Q. He made an error in not allowing for the freight on the box?

A. Yes.

Q. Is there any other alteration? Look carefully.

A. No, sir; there is no other alteration.

Q. How often do you make purchases?

A. Perhaps three times every two years; about every eight months, I should say. 24 months is two years; divide it by three.

Q. Were they for your supplies during the period intervening?

A. They were for future use.

Q. That is, I mean you bought for about eight months' requirements?

A. Yes.

Q. Now, can you tell us what quotations you received on the first specification given out after you became purchasing agent?

A. Yes.

Q. What was the date?

A. September, 1910.

Q. That was your first, was it?

A. Yes.

Q. From whom did you get quotations?

A. We asked for three quotations and obtained two.

Q. From whom did you ask them?

A. The American Sheet & Tin Plate Company, Jones & Laughlin and the National Enameling & Stamping Company.

Q. Before you give those, let me ask if you have any objection to giving the quotations indicated by the memorandum of your predecessor which you produced, omitting the names of those who made the quotations, so that we may have them on this record; have you any objection?

A. No, sir; I am glad to do it.

Q. You may do that, reduced to Pittsburgh base. Do that with regard to the 1909 contract.

A. Yes, sir.

Q. Was the contract made after receipt of these quotations that you find on the memorandum of your predecessor?

A. Yes, sir.

Q. Under what date?

A. January 27th, 1909.

Q. With whom?

A. I did not make the record of that.

Q. No matter if you have not the record. Do you know what the Iron Age quotation was on that date; have you looked that up?

A. Yes, sir.

Q. Please give it?

A. $3.65.

Q. What were the quotations, omitting the names of the bidders?

A. Two were $3.65; one was $3.60, and one was $3.56.

Q. Now, I will proceed to the next year. Was a contract made in 1910?

A. Yes, sir.

Q. And what was the date of that?

A. September 23rd.

Q. Was that the result of the bidding that you got?

A. Yes, sir.

Q. Do you know what the Iron Age quotation was on that date?

A. Yes, sir.

Q. What was it?

A. $3.60.

Q. Which one of the three concerns that you named did not bid?

A. The American Sheet & Tin Plate Company.

Q. Now, will you give to the stenographer to be printed as a Special Exhibit, the names and amounts of the other two bids?

A. Do you want me to give the names?

Q. To be put in the Special Exhibits, not public?

A. Yes, sir; I will give it to him.

Q. That you will do this afternoon with the other, will you?

A. Yes, sir.

Q. And will you now give the amount of each of those two bids on a Pittsburgh base?

A. Yes, sir.

Q. Please do so.

A. $3.60 was one of them and the other two were on a basis of $3.41 for our Granite City plant and $3.43 for our Davenport plant.

By Mr. Dickinson:

Q. I understood you only asked for three bids and got two?

A. Yes, sir.

Q. You said one was $3.60 and the other two; how do you make that?

A. The second one that I mentioned was made by one concern to cover two points.

Q. You had better explain that.

A. And on a different basis for each point.

By Mr. Lindabury:

Q. Did the first one make a different basis for the two or the same basis for the two?

A. The first one made the same basis for the two, $3.60.

Q. But the second one made a difference between the two plants?

A. Yes, sir.

Q. Did you receive those bids yourself?

A. Yes, sir.

Q. And have personal knowledge of them?

A. Yes, sir.

Q. When was the next contract?

A. In November, 1911, we obtained prices, but did not make a contract.

Q. From how many concerns did you obtain prices?

A. Four.

Q. Were they solicited by you?

A. Yes, sir.

Q. Which were the concerns?

A. The Osterberg Tin Plate Company, the Pope Tin Plate

Company, the McKeesport Tin Plate Company and Jones & Laughlin.

Q. You say you did not make a contract?

A. No, sir.

Q. Why?

A. Because we decided that we would do better by waiting.

Q. None of them were acceptable; is that it?

A. Exactly.

Q. Will you give the names of each of the bidders and the amounts of their bids to the stenographer to be printed in the Special Exhibits?

A. Yes, sir.

Q. Will you now give us the amount of the several bids reduced to a Pittsburgh base, omitting the names of the bidders?

A. Yes, sir.

Q. Please do so, but first give the Iron Age quotation on that date?

A. The Iron Age quotation was $3.40.

Q. What were the bids?

A. Two were $3.25, one was $3.20 and one was $3.15.

Q. Did you make a contract the next year?

A. Yes, sir; in February, 1912.

Q. From how many concerns did you obtain bids?

A. Five.

Q. What were they?

A. You mean the concerns?

Q. The names, yes.

A. The Pope Tin Plate Company, the McKeesport Tin Plate Company, the Osterberg Tin Plate Company, the National Enameling & Stamping Company and Jones & Laughlin.

Q. Will you give to the stenographer a memorandum showing the amount of each bid with the name of the bidder?

A. Yes, sir.

Q. That also to be printed in the Special Exhibits.

A. Yes, sir.

MR. DICKINSON: Let me get the date of that.

MR. LINDABURY: February 27th, 1912.

By Mr. Lindabury:

Q. Will you now give the amount of each bid, omitting the name of the bidder, prefacing the same with the Iron Age quotation?

A. The Iron Age quotation was $3.40. The bids are all different, all five of them. They are as follows: $3.25, $3.20, $3.10, $3.05, and $2.95.

Q. Have you made any contract since that?

A. Yes, sir.

Q. When was that?

A. I did not make the record of those later contracts.

Q. You have not given me, I notice on my memorandum, anything since.

A. I did not think you would be interested in that.

Q. Have you made more than one since?

A. I think I have made four.

Q. Since that time?

A. Yes, sir.

Q. I won't pursue that further now. We will see about it later, but are the contracts you have now given us all you made during the period covered by your own personal experience?

A. No, sir.

Q. What others did you make?

A. I did not make a record of them, sir. I only made a record of contracts on which I had bids.

Q. That is what I mean; you sometimes purchase without asking bids. Is that it?

A. No, sir. We asked bids, but I did not have any memorandum from which I could make a definite record and state definitely what the bids were.

Q. Are those quotations that you have given us, all that you have records of during the time you have been yourself conducting the purchases?

A. Yes, sir.

Q. In what shape are those records; that is, have you the quotations themselves?

A. Well, very often they are simply a notation in writing in pencil in my handwriting on a slip of paper.

Q. No matter about that. In one form or another you have written data covering these quotations; is that it?

A. Yes, sir.

Q. And do these comprise all the quotations that you have written data respecting; I mean have you given all that you have got?

A. All I can locate by a careful search through our files.

Q. I will ask only a word as to your recollection with respect to any quotations you got of which you have not this data; did they differ in any material respects from these that you have?

A. No, sir.

Q. Was there ever any closer agreement between them, so far as you recall, than there was between these which you have produced?

A. No, sir.

Q. I see there is no time here when more than two apparently have been alike. Do you remember any time when more than two were, in fact, alike?

A. No, sir.

Q. And do you remember any time when the variation between them was materially less than on those that you have given us?

A. No; I don't remember any such time. I am speaking simply from recollection, you understand.

Q. I understand. I am only desiring to know whether or not these that you have produced here, so far as your recollection serves you, are fairly representative of all.

A. Oh, decidedly; yes, indeed.

Q. I see you have not made any actual purchases from the American Sheet & Tin Plate Company?

A. No, sir.

Q. And apparently you have only had one quotation from them?

A. Two.

Q. Two quotations?

A. One quotation and one case where they were not prepared to quote.

Q. Yes, in one case they did not quote?

A. Yes, sir.

Q. Has it been your practice to solicit their quotations, or have they generally been offered to you? I am wondering who has done the soliciting—you or the manufacturers.

A. Well, in some instances the manufacturers follow us up, and in other instances we follow them up.

Q. Is there any reason why you have not had more quotations from the American Sheet & Tin Plate Company or why they have not gotten any of your business?

MR. DICKINSON: I object to that.

MR. LINDABURY: Scratch it out. I think it is objectionable. That is all. You will cross examine after the recess, Judge?

MR. DICKINSON: Yes.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

CLARENCE L. CAMPBELL,

the witness under examination at the taking of recess, resumed the stand.

MR. LINDABURY: Under the plan agreed upon before recess, the witness during recess has made a memorandum reducing to Pittsburgh base the quotations on the memorandum that he produced, in the handwriting of Mr. Powers. I will ask that that be marked as a special exhibit; this refers to the contract of January 27, 1909.

(The paper referred to was thereupon marked "Special Exhibit (Campbell) No. 11, December 17, 1913," and will be found in the volume of Special Exhibits.)

MR. LINDABURY: Also the following: Quotations for September ~~10th,~~ reduced to the same base.

(The paper referred to was thereupon marked "Special Exhibit (Campbell) No. 12, December 17, 1913," and will be found in the volume of Special Exhibits.)

MR. LINDABURY: Also the quotations for November, 1911.

(The paper referred to was thereupon marked "Special Exhibit (Campbell) No. 13, December 17, 1913," and will be found in the volume of Special Exhibits.)

MR. LINDABURY: Also the quotations for February, 1912.

(The paper referred to was thereupon marked "Special Exhibit (Campbell) No. 14, December 17, 1913," and will be found in the volume of Special Exhibits.)

By MR. LINDABURY:

Q. Mr. Campbell, how many times have you invited quotations from the American Sheet & Tin Plate Company since you have been purchasing?

A. I can only find a record of one occasion.

Q. Have you any recollection as to whether you actually invited them on more occasions than that one?

A. I remember vaguely having talked to Mr. Gessler of the American Sheet & Tin Plate Company on different occasions, but it is rather a vague recollection.

Q. At his request or on your own initiative?

A. I really could not say.

CROSS EXAMINATION

By MR. DICKINSON:

Q. During the period covered by your testimony, so far as you know the American Sheet & Tin Plate Company only made one bid?

A. Yes.

Q. Was not that bid the same——

A. I beg pardon; they did not make any bid during my purchasing. I asked them once, but they did not bid.

Q. Including the year 1909, covered by the memorandum of Mr. Powers, from that down to the present time, so far as you know they only made one bid?

A. Yes.

Q. Was not the bid they then made the same as the then quoted price in the Iron Age?

MR. LINDABURY: That is so, if you do not mind; he might as well say yes, because it is so. I know.

THE WITNESS: Yes.

MR. LINDABURY: Do you object to my stating it?

MR. DICKINSON: No; I know it is so, so you might as well say yes. He told me that at lunch time.

By MR. DICKINSON:

Q. Now, coming to this memorandum made by Mr. Powers, you simply found that among the papers, this pencil memorandum?

A. Yes.

Q. You did not go back of that or examine any of the original papers on which that was based?

A. No, sir.

MR. LINDABURY: Would you mind letting him show whether the original papers were at hand or not?

By MR. DICKINSON:

Q. Did you look for them?

A. Yes; that is to say, I looked through the old contract file, and there were no written bids other than that pencil memorandum.

Q. And you do not know that these were written bids, do you?

A. No.

Q. So you really have no information on that subject other than what appears in the memorandum?

A. No, sir.

Q. And you accepted that upon faith in Mr. Powers?

A. Yes.

Q. Now, I notice in your testimony you said that this 22½ under the Standard bid was an error?

A. Yes, sir.

Q. Who made that error?

A. Mr Powers.

MR. LINDABURY: Standard what?

THE WITNESS: That is the Standard Tin Plate Company.

By Mr. Dickinson:

Q. I notice that you have written on the right of this memorandum, "part of contract 1/27/09." What did you mean by that?

A. That is the contract I found it attached to.

Q. You found it attached to that?

A. Yes, sir.

Q. This is dated January 13th, 1908. You say that was attached to the memorandum papers of 1909?

A. Yes, sir.

Q. Why wasn't it attached to the papers for 1908?

A. I think the 1908 is a typographical error.

Q. It is not typographical, is it; it is written?

A. Perhaps I do not use the word typographical correctly, but I think it was an error, because it was made on the 13th of January, and a man very often forgets and uses the date of the year before, although the new year has happened.

Q. You are not undertaking to speak for the extent of Mr. Powers' forgetfulness or the errors that he makes?

A. No.

Q. That is a mistake, then, is it, January 13th, 1908?

A. I judge so.

Q. That is your opinion?

A. Yes, sir.

Q. And you found it among the papers of 1909?

A. Yes, sir.

Q. Then there are two mistakes here in Mr. Powers' handwriting, according to your opinion?

A. Two small ones, yes.

Q. You say they are small ones; they are mistakes, however; you don't know how many other mistakes there are?

A. I do not think there are any errors.

Q. Yes, but you do not know where he got those figures?

A. No, sir.

Q. From what sources he wrote them down?

A. The errors are so small that a man in a great hurry could very easily make them, and they do not change the meaning of the memorandum to me.

Q. But they are mistakes?

A. Small ones, yes.

MR. LINDABURY: Would you mind asking him the date of the contract to which that was attached?

MR. DICKINSON: He said 1909.

MR. LINDABURY: The date in the year. Will you ask him that?

By MR. DICKINSON:

Q. Answer that, will you.

A. January 27th, 1909.

Q. You do not know from what sources he got these figures showing these bids, whether he copied them from something or whether he put them down from telephonic communication, or whether he got them from letters, or whether some other paper was made up from which these were copied; you don't know anything about that?

A. No, sir.

Q. Then of course you do not know anything about the correctness of that paper?

A. It seems correct to me.

Q. But I am asking you if you know anything about the correctness of the paper from your own knowledge, or from any examination of the data upon which it was based?

A. If you brought that paper to me and asked me if I thought it was correct I would say yes.

Q. I am not asking you what you thought. I am asking you what you know?

A. Well, I presume, then, that I do not know.

MR. DICKINSON: We object to this paper and the evidence founded on it on the ground that it is secondary; that according to the testimony of the witness it has two errors that he has pointed out in it, and that it is made up in a manner and from sources that the witness knows nothing about, and that therefore it is incompetent.

By MR. DICKINSON:

Q. Now, Mr. Campbell, from the time that you began down to the present time embraces nearly five years?

A. Yes, sir.

Q. I understood you to say that your written contracts were about every eight months?

A. Yes, sir.

Q. For that five years you have produced, I believe, only three contracts,—is that correct,—in respect to which you give the figures and quotations?

A. Yes.

Q. In whose keeping have those papers been? Yours or some clerk of yours?

A. One of the clerks in the office.

Q. What search did he make, and who picked out those papers; just tell us the facts about that, will you?

A. Well, the contracts are filed away in thick envelopes, and I obtained the different contracts that were made and only considered the ones to which I had data attached on which to base this information. There were other contracts to which there was no data attached, and which would consequently not be of any value.

Q. That is in your estimation?

A. Yes, sir.

Q. In regard to these contracts that you thought would not be of any value, state how many there were?

A. The ones of no value?

Q. The ones that you so considered and did not produce.

A. Perhaps half a dozen.

Q. Then there were about nine in all, of which you produce three?

A. I judge so.

Q. Now, these six that you did not produce, as I understand, they had no information with regard to quotations?

A. No, sir.

Q. You do not know what those quotations were, do you?

A. I do not remember them definitely. I remember that there were quotations obtained on all of them.

Q. Yes; I understand, but I mean as to what the quotations were on each of these contracts, and who they were from, and in what periods they were given, and what they were and what their relation to each other was, can you give us any information about that?

MR. LINDABURY: Would you mind separating those various questions, or at least ask the witness to notice them all.

MR. DICKINSON: Repeat the question, please.

(The stenographer thereupon read the pending question as follows:)

"Q. Yes, I understand, but I mean as to what the quotations were on each of these contracts, and who they were from, and in what periods they were given, and what they were and what their relation to each other was, can you give us any information about that?"

A. No, sir.

Q. You do not charge your mind, I suppose, with those things after they pass by?

A. No; I am very apt to forget them.

Q. And you would not be able to testify about these others, except what you found in the papers?

A. No.

Q. And the information you have given us has been based entirely upon the documents that you have found?

A. Yes, sir.

Q. Take the contract of September 23, 1910. Was that the date it was made?

A. I presume so; yes, sir.

Q. That is your understanding?

A. That is the date of the contract.

Q. How long before that contract were the quotations or bids made upon that particular contract? Can you look and see?

A. I did not keep any record of the dates of the bids other than the one later from the American Sheet & Tin Plate Company saying that they were unable to quote at that time.

Q. You do not know the dates, then, in respect to this date of September 23, when those several bids were made?

A. The bids were made within a period of a few weeks prior to that.

Q. The Iron Age price that you have given, with which you have made comparisons, was on September 23, was it not?

A. Yes.

Q. So you compared the Iron Age price with the contract price; is that so?

A. I always have the Iron Age price more or less in mind.

Q. If I should go to work and ask you the Iron Age prices for different dates and months for four or five years past, do you mean to say you have them in mind in that way so that you can give them?

A. Not to that extent. I could find them in my records in my office.

MR. LINDABURY: I want to know what the answer of the witness was to Judge Dickinson's question, or rather statement to the witness that he compared the Iron Age prices with the contract price. He did not do that, Judge. That is an erroneous statement. He did not, in his testimony, his testimony this morning; he compared the Iron Age prices with the quotations, and only with the quotations.

(The stenographer repeated the question and answer referred to as follows:)

"Q. So you compared the Iron Age price with the contract price; is that so?

"A. I always have the Iron Age price more or less in mind."

MR. LINDABURY: I see he has not answered it directly.

MR. DICKINSON: He has not answered it at all.

By MR. DICKINSON:

Q. Take the prices of the Iron Age that you have compared there in respect of this contract of September 23, 1910: what date of the Iron Age did you take for that comparison?

A. That I am not prepared to answer. I don't remember.

Q. Do you remember whether you took the date corresponding to the date of the contract, September 23, or some other date?

A. Some date within a few days either way.

Q. You don't know the dates, however, at which these respective bids were made?

A. No, sir.

Q. You say some of them may have been made two or three weeks before that?

A. Yes, sir.

Q. Take the contract of November, 1911.

A. There was no contract made then. We simply solicited bids, and decided that they were not acceptable.

Q. What date did you solicit those bids? Can you show from your memorandum?

A. Yes; I can, because I have a copy of the letter that I wrote to the different people asking them to submit bids, or to come to see me.

Q. When did you get quotations in respect to that?

A. Within a week or so after November 21, 1911.

Q. Did they all come at once, or did they come along at various times?

A. They came along at different times.

Q. Do you know how far apart?

A. There might have been an interval of a day or two, or there might have been two or three of them come to see me on the same day.

Q. Have you any memorandum to show when they did come?

A. No, sir.

Q. You have no distinct recollection about that?

A. I know very definitely that they were made within a period of two or three weeks after that date.

Q. And that is as nearly as you can say?

A. Yes, sir.

Q. What day of the Iron Age price did you contrast with that? Give us the date.

A. I did not take any definite day. In preparing these Iron Age prices I have simply looked back over a record that shows what the prices have been at certain periods.

Q. Then you took the monthly average prices, did you?

A. I would not say the monthly average prices, because the Iron Age price might not change for a period of four or five months, and then it might change—well, I don't think it would change more than once every four or five months.

Q. Why was that? Because that was approximately the market price for four or five months?

A. I believe that the Iron Age price is an approximate price, yes.

Q. And that approximate price was continued four or five months without change?

A. Yes, sir.

Q. But you do not know, in respect to this bidding that you solicited November 21, 1911, just what time you did take from the Iron Age prices for that comparison?

A. No; I don't think that any note of that would have been made, because the Iron Age price very likely did not change in the period from the times the bids were asked until they were all received.

Q. But it does change, does it not?

A. It does change occasionally.

Q. And you do not know just now when that change, if there was any, occurred in respect to this date of November 21?

A. I think the Iron Age price changed in October, 1911. I am not sure.

Q. Did you take the October price or the price before October, or——

A. I would take the new price made in October.

Q. You don't know whether you did or not, do you?

A. I know that I took the price that was in effect—not in effect, but was quoted in November, 1911, yes.

Q. Did you take it from a chart?

A. I took it from a book, a printed book.

Q. And from the chart in the book?

A. It is a table.

Q. A table?

A. Yes, sir.

Q. Does not that table show average prices? It does not show daily prices, does it?

A. No. The way that book reads, it gives the dates on which the prices changed, and it gives what they were.

Q. But what I am trying to get at now, if you know, is to have you to state what Iron Age price you contrasted with these quotations that you got on your solicitation of November 21.

MR. LINDABURY: Before you answer that—I do not want to object to this, but we have those Iron Age quotations in evidence, Judge, and if the witness has made a mistake, it is easily corrected, is it not?

MR. DICKINSON: I don't care whether he has made a mistake or not.

MR. LINDABURY: I mean to say the correctness of the witness' comparison here is easily ascertained by comparison with the record we have in evidence already, is it not?

MR. DICKINSON: I want the witness to state just what he did.

By MR. DICKINSON:

Q. When did you do this; when did you contrast the quotations you got from this November 21 solicitation with the Iron Age? When did you do that, now? Tell me what you did, and what you had before you.

A. I receive a copy of the Iron Age on Thursday morning, I believe.

Q. What Thursday morning?

A. Of every week. I open the Iron Age, and the first thing I turn to under the Pittsburgh market is the heading of "Tin Plate," in which is given the Iron Age price.

Q. I will make a little digression there. I do not think you have answered my question, but first you open the Iron Age every Thursday morning?

A. Yes.

Q. And the first thing you turn to is the tin plate quotations?

A. Yes.

Q. To look at the price quoted in the Iron Age?

A. Yes.

Q. Do you attach any importance to that?

A. It is interesting. That is about all.

Q. You are just looking for something to amuse you, then?

A. Yes.

Q. That is your Thursday morning amusement—looking at the prices of tin plate as quoted in the Iron Age, is it?

A. I have other things to do Thursday morning too.

Q. But I am just speaking of the diversions you have on that day. Is that one of your non-busy days?

A. All of my days are pretty busy.

Q. But you divert yourself to that extent on that day with those quotations, do you?

A. I am very much interested in the work of the department, and I am anxious to know that we are doing the right thing for the company. Consequently I, as a matter of interest, look at those prices.

Q. And you think that they help you to do the right thing; is that so?

A. It gives me a line on what I have done in the past, and we usually profit by our mistakes in the past if we are wise.

Q. Well, now, I will come back to the other questions I asked you, and getting away now from this Thursday morning diversion, just tell me what you actually did in contrasting the Iron Age prices with the quotations you got from the solicitation of November 21, 1911; tell me how you went about it, what you had before you, what you did and when you did it?

A. Well, I think I have already told you, Judge.

Q. Is that as near as you can show me?

MR. LINDABURY: Hold on; I think he was going to add something.

MR. DICKINSON: All right.

(The question and answer were repeated by the stenographer.)

MR. LINDABURY: You were going to say something more.

THE WITNESS: I hardly know what to say. I want to answer the question as clearly as I can.

By MR. DICKINSON:

Q. Well, I will try you on a more recent date.

A. All right, sir.

Q. You made a contract February 27, 1912?

A. Yes, two.

Q. Two on that day?

A. Yes.

Q. And you gave the quotations that you got, did you?

A. Yes.

Q. Now, how many quotations on the first contract did you get?

A. Well, the quotations that we obtained were the basis of both contracts.

Q. That was the day the two contracts were made?

A. Yes.

Q. How long before that contract was made did you get those several quotations?

A. Within a period of two or three weeks.

Q. Is that as near as you can come to that?

A. Yes.

Q. Now, the price that you have contrasted with the Iron Age price, is that the contract price or the quotations that you got?

MR. LINDABURY: Will you repeat that question, please?

(The question was repeated by the stenographer.)

MR. LINDABURY: I object to that; the witness has not said that the contract price was either or any of those prices.

MR. DICKINSON: Either or any of what prices?

MR. LINDABURY: Either the Iron Age price or the bid prices.

MR. DICKINSON: I did not say it was.

MR. LINDABURY: You assumed it was one or the other, that he had said it was one or the other.

MR. DICKINSON: No, I did not assume it was one or the other.

MR. LINDABURY: Read the question; I think you will find that it is.

MR. DICKINSON: I will ask another question.

By MR. DICKINSON:

Q. Have you not made either a contrast of the Iron Age price with the price or prices in respect of these contracts of February 27, 1912?

MR. LINDABURY: I object; the evidence plainly shows that he has not. He has simply contrasted the Iron Age prices

with the quotations, without mentioning at all the price at which he actually contracted. That is his testimony. I do not object to your asking the contract price, but you misunderstood.

MR. DICKINSON: I have not had a chance to read all his testimony; I do not carry it in my mind.

MR. LINDABURY: Nor I, either.

By MR. DICKINSON:

Q. I will ask you: Is that the way you understand your testimony, the way Mr. Lindabury stated it?

A. Yes.

Q. That is to say, then, that in respect of this contract you contrasted the quotations that were made with the Iron Age prices; is that correct?

A. Yes.

Q. Now, what date did you take for the Iron Age price for this contrast?

A. The Iron Age price that was in effect in February, 1912.

Q. The Iron Age price that was in effect in February, 1912?

A. Published in 1912, yes.

MR. LINDABURY: Now, Judge, lest you be under misapprehension, that which I have just said about this is true of all his testimony; he has not in any case contrasted Iron Age prices with the contract prices.

MR. DICKINSON: I am not asking now about contracts.

MR. LINDABURY: I know, but I think you are under a misapprehension. That is all.

MR. DICKINSON: I am not particular about it; I just want to get the ones he contrasted with it.

By MR. DICKINSON:

Q. Was the Iron Age price the same throughout February, 1912?

A. I believe so.

Q. Do you know whether it was or not?

A. No.

Q. Now, did you take these prices with which you made all these contrasts that you have testified about from the Metal Statistics prices or from the Iron Age itself?

A. Well, I probably took some of them from one and some of them from the other. I used to take the American Metal Market and the Iron Age. I discontinued taking the American Metal Market some time ago, just when I don't remember.

Q. I do not know whether you understand my question. I would like to have it read again.

(The question was repeated by the stenographer.)

THE WITNESS: What do you mean by Metal Statistics prices?

By MR. DICKINSON:

Q. What I am trying to get at is to find out just exactly what you did in making this contrast that you have made between the Iron Age prices and these quotations, as of any of these periods. In following that I also ask you did you make them up by going to the original files of the Iron Age, or did you take some of them from that source and some from the quotations in the Metal Statistics, or just what did you do?

A. Well, I tried to answer that question before, when I said that I received the Iron Age, I believe, on Thursday morning, and when I read my copy of the Iron Age I see the prices in the Iron Age.

Q. Is that the foundation, then, on which you made those contrasts?

(By request of Mr. Lindabury the question was repeated by the stenographer.)

MR. LINDABURY: Do you understand the question?

THE WITNESS: Well, I think I can clear up the proposition now. I am sorry if I seem dull about it. I have in my office a little red book called American Metal Statistics or something of that sort, and in that book is the record when the prices changed and what they were, and when I made up this list I took those prices out of that book. Also, ever since I have been buying tin plate, when I have received the trade

journals that treat on tin plate I have read with interest the quotations given in those journals as to what the price was.

By Mr. Dickinson:

Q. But the actual contrast, then, that you made between these prices was based on figures you took out of that little book?

A. Yes, sir.

Q. And that is the only source, the only documentary source, that you used at the time?

A. Yes, sir.

Q. Now, you are a very large purchaser, are you not?

A. Yes, sir.

Q. And your contracts are for large tonnages?

A. Yes, sir.

Q. Large money value?

A. Yes, sir.

Q. About what, in money, per annum do your purchases in tin plate amount to?

A. About $1,000,000 a year.

Q. Isn't it a fact that being such a large purchaser gives you an advantage in price?

A. I should think so.

Q. Now, then, take these contracts that you have referred especially to, the one of January 27, 1909: what was the tonnage, what was the number of base boxes?

A. I think 100,000 base boxes; I did not make any record of that.

Q. September 23, 1910: what was the number of base boxes?

A. I think that contract was for 300,000 or 400,000 base boxes.

Q. Did you ever buy as many as 400,000 in any year?

A. Never used as many as 400,000 in a year.

Q. Didn't you state that for 1910 your purchases were 330,845 boxes.

A. Yes, sir.

Q. Now, do you say that that contract was for 400,000?

A. I said for 300,000 or 400,000.

Q. I thought you said afterwards that you thought it was 400,000.

A. No; I am simply guessing on that; I haven't it here.

Q. On what tonnage did you solicit bids on November 21, 1911?

A. The only reference to tonnage that was made in my inquiry was "This contract will run into quite a large sum of money."

Q. Now, take the two contracts of February 27, 1912: what number of boxes did that embrace?

A. One for 250,000 base boxes, and the other for 125,000 base boxes, as I recall it.

Q. One was 250,000, you say?

A. Yes, sir; that is my recollection.

Q. And the other was how much?

A. 125,000.

Q. That would be 375,000?

A. Yes, sir.

Q. Didn't you state that you only bought for 1912 286,900?

A. I stated that is all we used.

Q. All you used?

A. Yes; we had some left over at the close of 1912.

Q. Now, these respective contracts upon which you solicited quotations, and upon which you got quotations, and in respect to which you have given the dates upon which the contracts were closed, was that delivery to be on those dates upon which the contracts were closed, or on dates on which quotations were made, or was it for future delivery?

A. For future delivery.

Q. Extending over what period of time generally; about eight months?

A. It would probably average eight months.

Q. During this period from 1909 to 1912 what percentage of your business has been given to the National Enameling & Stamping Company?

A. Beginning what date was that?

Q. Well, 1909 on.

A. I have tried to give you some figures on that in the noon hour; I don't remember just what they were—I think about

50 per cent. was about what the National Enameling would run.

Q. I do not think I put them down; if I did I haven't got them. They are located right near you, are they?

A. Yes, sir; they have a plant at Granite City, Illinois, and we use the bulk of our tin plate at Granite City, Illinois; it is right across the railroad track, I believe.

Q. These bids that you have been given, the quotations, do they all include delivery?

A. No, sir.

Q. Some of them where the freight is paid by the manufacturer, and some by you?

A. Some where we pay it; yes, sir.

Q. Is there anything on that memorandum there made by Mr. Powers to show whether or not freight was included?

A. Some of the bids included freight.

Q. Does his memorandum say that on the face?

A. It shows it; yes, sir. It is right there, sir.

Q. Is that his handwriting there?

A. Yes. This is a delivered price.

Q. Wait a minute. How many of them show on the face, by anything that is there written, that the price is f. o. b. or delivered?

A. I would say that three of them include delivery.

Q. But is there anything there that says they include delivery?

A. No, but you can judge from the price that it does include delivery.

Q. Oh, you are judging from the price?

A. Yes, sir.

Q. I want to know what there is in that paper.

MR. LINDABURY: Don't they show the point of delivery?

MR. DICKINSON: No.

THE WITNESS: They show the point they are to go to; "G. C." means Granite City, and "Dav." means Davenport.

By MR. DICKINSON:

Q. The point to be shipped to?

A. These are the points to which they are to be shipped.

Q. But it does not say anything there whether the freight is included or whether it is not?

A. It indicates to me that it is to be delivered.

Q. Is there anything there on that subject, one way or the other?

A. Yes, sir.

Q. Just state what it is; just read what there is there that shows that.

A. $3.89 is the price stated for Granite City.

Q. What does it say, "G. C. $3.89"?

A. Yes, sir.

Q. It does not say that that is the price at Granite City; it only says "G. C. $3.89."

A. Yes, sir.

Q. And you interpret that to mean that it is the price delivered at Granite City, do you?

A. Yes, sir.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. First with regard to the quotations. I show you a red covered book entitled "Metal Statistics for 1913, published by the American Metal Market, Daily Iron & Steel Quotations." Look at that and tell me whether or not it is the red covered book to which you referred in your cross examination?

A. I think that the one I had——

Q. Of course this is not the one you had, but look at it and tell me whether or not it is the publication to which you referred?

A. It is the same publication, yes.

Q. Now look at page 87. Does that give the Pittsburgh quotations on tin plate?

A. Yes, sir.

Q. As we have in evidence already an earlier copy of that book, being Government Exhibit No. 115, found on page 313 of Government Exhibits, Volume I, which, however, stops at

the date of October 16, 1911, I will ask you to read into the record the subsequent quotations on tin plate only.

A. October 16, 1911, $3.40.

Q. That is a duplication of what is here. That is where the old exhibit ends. Give the two subsequent ones.

A. July 9, 1912, $3.50.

September 4, 1912, $3.60.

MR. LINDABURY: Now, gentlemen, unless you will waive it, I shall feel under obligation to offer the book itself. I take it that you do not care to have me do that.

MR. DICKINSON: I will waive the putting in of this book, but I shall want to ask something else in regard to it, of course.

MR. LINDABURY: Oh, certainly.

By MR. LINDABURY:

Q. Do you or not recollect whether the Iron Age quotations agree generally with the quotations in that red book, or don't you recall? You have spoken of seeing them both?

A. Why, I think they do agree, yes.

Q. Judge Dickinson asked you on cross examination whether you could give any information as to who the other bidders were on the half dozen contracts made during your purchasing experience, quotations on which you had not produced; and I understood you to answer that, along with several other propositions in the question, "No." Is it true that you cannot give any information as to who it was that bid on your other purchases in the half dozen cases where you did not produce the bids?

A. We must have had bids.

Q. From whom, now—that is what I want to know. You have already said you had bids.

A. The National Enameling & Stamping Company, Jones & Laughlin Steel Company, the McKeesport Tin Plate Company, the Pope Tin Plate Company, the Washington Tin Plate Company, the Standard Tin Plate Company and the Phillips Sheet & Tin Plate Company.

Q. Very well, now. Have you a recollection that, in all the six cases, or if not in all, in some of them, you received

bids from all of those people, or if not from all, from some of them?

A. Yes.

Q. Do you remember generally how many of them bid?

A. We usually obtained bids from three or four of them.

Q. Did you or not receive bids in all of the cases where you have not produced the bids from at least that number of the group you have just named?

A. I think so.

Q. Embodied in that same multifarious question was an inquiry as to whether you remember anything about the time that you got these other bids. Is it true that you have no recollection whatever as to the time when you got any of these bids, as to whether you got all six of them in one day or month?

A. If they were submitted in a period of more than a month, we would not consider them as applying to the same proposition.

Q. Can you tell me whether or not the six were, as a matter of fact, distributed through the period of years or not?

A. Oh!

Q. That is what I mean.

A. They were distributed through the period of years.

Q. And with any sort of evenness?

A. No, sir.

Q. You mentioned something about buying once in eight months, or something or other like that?

A. Yes.

Q. Do you remember whether or not that was about the periodicity of your purchases?

A. I think that was about it, yes.

Q. That is what I mean.

You also said, "No" to a part of that many headed question, to the effect that you could not tell the relation of these bids to each other.

Is it true that you do not remember whether they were all alike, or all different, or any thing at all about that?

A. Well, I know that the bids were never all alike, because

a peculiar circumstance like that would be very clearly impressed on a buyer's mind.

Q. Do you remember whether or not there was any time when a majority of them were alike?

A. I do not recall any such time, no.

Q. Do you recall whether or not the variation between them was substantially the same or substantially different from those that you did produce?

A. My recollection is that the bids have always varied about the same as the bids that I have produced.

MR. LINDABURY: That is all.

RECROSS EXAMINATION.

By MR. DICKINSON:

Q. That question that I put to you was read over to you. Didn't you understand it when you answered it?

A. Do you mean that long question, Judge?

Q. Yes; that long question.

A. I think I was a little bit mixed up on that.

Q. On what part were you mixed up? Just state.

A. Well, I understand that Mr. Lindabury's questions cover practically the same ground; and in answering Mr. Lindabury's questions I have tried to give the information which is probably asked for in your question.

Q. Can you tell how you were mixed up by that question —just what mixed you?

A. You asked me so many questions at once, Judge.

Q. It was read to you, was it not?

A. Yes.

Q. Didn't you understand it?

A. I probably made the mistake of trying to digest the whole thing at one time.

Q. Now we will see how you digested it in parts. You mentioned the names, just now, of a number of companies——

A. Yes, sir.

Q. Wait until I get through.

You mentioned the names of a number of companies that

bid to you. Did all those companies bid to you in all of those years?

A. Not in all of the years, no.

Q. Take the year 1909: Can you now recall the names of those that you know bid in 1909, of those companies?

A. I can, from that memorandum that you have there.

Q. Oh, well, I want the memorandum that is in your mind, now.

A. No, sir; I cannot.

Q. Can you for 1910?

A. No, sir; not for any year.

Q. Can you state any three or four of them that you know about in 1909?

A. I can by recalling that memorandum to my mind, if that is satisfactory.

Q. But you can not state from memory?

A. No.

Q. Now, as to these contracts that are not included in this memorandum; do you know which ones bid on those contracts?

A. I know that at least three or four of them bid on every contract.

Q. But you can not state which three or four bid on any contract?

A. No, sir.

Q. Nor what their bids were?

A. No.

Q. Nor what the relations to each other were?

A. Their bids were always—it was seldom that there were more than two bids alike.

Q. But sometimes they were, were they?

A. I do not think there was ever a case where there were more than three alike.

Q. Sometimes three were alike?

A. It is possible; I have no figures, Judge. I am simply——

Q. You are simply guessing, are you?

A. Yes.

Q. And you have been guessing on a great many of these answers?

A. Not except on an answer when I have told you I was guessing.

Q. I don't think you told me that before. Now, there were times when there were more than two alike?

A. I believe so, yes.

Q. Do you know how often that was?

A. Not very often.

Q. Have you any recollection as to what portion of these contracts were that way? Have you any recollection as to any particular contract?

A. No.

Q. Now, there are six contracts which you have not produced, are there not, about?

A. About six, yes.

Q. Can you state who bid on those contracts?

A. Some of the concerns that I mentioned before.

Q. And some bid sometimes on one and sometimes on another?

A. Yes.

Q. And you do not know which ones bid on either one of these?

A. No, sir. We made a practice of getting bids from three or four concerns.

Q. You made a practice to ask for them?

A. Yes.

Q. And you did not always get them?

A. Usually.

Q. You did not get them from the American Sheet & Tin Plate Company, did you?

A. No.

Q. Mr. Campbell, do you remember enough about any one of these contracts to say who the bidders were and how many of those bidders were alike, if there were any of them alike?

A. I remember that the bidders were three or four of the concerns that I have already mentioned, and I am sure that if any great number of bids had been alike, I would have remembered it.

Q. But you do not remember it?

A. I don't recall it.

Q. Do you remember one way or the other?

A. I do. I remember very definitely that the bids were not—any great number of the bids they were never alike.

Q. What do you mean by any great number?

A. More than two.

Q. Well, do you remember now that in no instance were more than two alike?

A. I have a hazy recollection that on one occasion we had three bids that were alike, but I think that two out of the three were only quoting on a very small portion of the tonnage that I asked for.

Q. What year was that?

A. I do not remember what year it was.

Q. And who bid on that?

A. Oh, three or four of the concerns that I have already mentioned.

Q. And that is all you can say about it?

A. I can not give you positive information on that.

Q. What did they bid? Do you know what they bid?

A. No, I don't remember.

Q. Your recollection is very hazy about that, is it not?

A. About that particular point, yes.

Q. Now, are there any where you are not so hazy, where you can specify the contract and state who bid on it and what they bid?

A. I have endeavored to give you a record of the only case where I can state definitely.

Q. And from memory, then, you can not state anything definitely?

A. What do you want me to state from memory?

Q. I would like, if you know, to tell me some particular contract, if you have such in your mind, and state who bid on it, and when it was.

A. I have given you all the information of that sort that I can, Judge.

Q. And you can not give me any further than that; is that right?

A. Yes.

Q. You spoke of some companies that bid; do you remember the number that you named?

A. I presume that we have had bids from six or seven different companies.

Q. Now, you said, as I understood you, that they were distributed throughout a period of years?

A. Yes.

Q. Now, take the year 1909—just leave your memorandum aside, will you please? Can you state how many of that six bid that year, and which they were?

A. No, sir.

Q. In 1910?

A. No, sir.

Q. 1911?

A. No, sir.

Q. 1912?

A. I should say at least three of them bid in every one of those years.

Q. But you can not say how many in every one of the years?

A. No.

Q. But about three bid in all the years, and sometimes they would be different ones.

A. Sometimes they would be different ones.

MR. DICKINSON: That is all.

JOSEPH D. GALLAGHER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Gallagher?

A. Glen Ridge, N. J.

Q. What is your occupation?

A. Vice president and general counsel.

Q. Of what company?

A. American Brake Shoe and Foundry Company.

Q. How long have you had that office in that company?

A. I have been vice president of it since it started.

Q. When was that?

A. 1902. I have been general counsel for the last year.

Q. Where are the plants of the American Brake Shoe & Foundry Company?

A. Mahwah, New Jersey; Norwood, Massachusetts; Buffalo, New York; Uniontown, Pennsylvania; Chattanooga, Tennessee; Columbia Heights, Minnesota, just outside of Minneapolis.

Q. Any plants near Chicago?

A. Wait a minute. Two plants in Chicago and one at Melrose Park, just out of Chicago; one at New Richmond, Indiana.

Q. Is that the last?

A. Yes, sir.

Q. I infer from the name that the company makes brake shoes?

A. Yes, sir.

Q. That is for railroad rolling stock, I suppose?

A. Railroad and electric line rolling stock and locomotives.

Q. Does the company buy steel?

A. It does.

Q. In what form?

A. In the form of plates and bars.

Q. For what part of a brake shoe are steel plates or bars used?

A. For the reinforcing back.

Q. About what tonnage of steel plates and bars is bought by your company annually?

A. From ten to twelve thousand tons.

Q. Are you familiar with the purchasing of that steel?

A. I have the general supervision of the purchasing and have since 1907. Prior to that time we did not use very much of it; the purchasing agent attended to it alone.

Q. Prior to that time, you say?

A. Yes, sir.

Q. But since 1907 you have had general charge of it, have you?

A. Yes, sir.

Q. And have the quotations that have come to your company been submitted to you?

A. Yes, sir.

Q. Have you taken part in the negotiations with the sellers?

A. Yes, sir; after the purchasing agent got them down as low as he could I usually took a hack at them to get them down some more.

Q. And have the results justified these efforts on your part?

A. I think they have.

Q. Do you buy on annual contracts or in lots from time to time?

A. Usually on annual contracts. I think some of our contracts prior to 1907, and I am not positive, but one or two since, were for six months, but I don't think they have been since 1907.

Q. Before you let a contract—I am asking you now about this period from 1907 on, with which you have been personally familiar, did you ask quotations from different manufacturers on plates and bars?

A. Yes, sir.

Q. About how many have you had quotations from?

A. Well, we have not had quotations from anything like the number we asked, but we usually get quotations from four or five.

Q. Give us the names of those or some of those who have submitted quotations to you?

A. Illinois Steel Company, Carnegie Steel Company, Republic Iron & Steel Company, Lackawanna Steel Company and once I think the La Belle Iron Works; Charles A. Ridgeley, I don't know whether he is selling agent of the Inland or not, but he sells their product to us.

Q. The Cambria?

A. I do not think the Cambria ever quoted us; it has al-

ways been asked. Prior to 1907 I think we bought from Lukens.

Q. Have you had quotations since 1907 from Jones & Laughlin?

A. No, they do not usually quote. I do not think they ever quoted. They usually write and say they are not in a position to quote.

Q. At what points do you ask delivery of this material?

A. Chicago and Mahwah.

Q. In what part of New Jersey is Mahwah?

A. The northern part, on the boundary line of New York, right next to Suffern, New York.

Q. Did you ever get quotations from Worth Brothers?

A. I think so; but I think it was prior to 1907.

Q. The Eastern Steel Company?

A. No; not that I recall.

Q. Do you use plates or bars indifferently for this purpose of reinforcing your brake shoes?

A. I may not distinguish quite between a plate and a bar. We use bars for our car shoes 2⅝ inches wide and 3-16 of an inch thick. For our drivers we use bars 6 and 6½ and 6¾ inches wide and 3-16 inches thick. I have always called those wide ones plates; maybe they are all bars.

Q. You do not happen to know whether they are made by plate mills or bar mills, do you?

A. I do not.

Q. You have had quotations from Lukens on the product that you want, have you?

A. No; in those days we were using a plate 13 inches wide and cutting out car backs crosswise from it.

Q. Now, what has been your experience with the quotations that you have received from these different manufacturers, Mr. Gallagher; have they varied or have they come in all alike?

A. Well, speaking offhand, without referring to these quotations, my recollection is that when there was a boom on and the steel men thought they could get anything they asked they always quoted the highest market price.

Q. What has been your experience at other times?

A. At other times my recollection is quotations would vary, the original quotations. May I say a word more there?

Q. Yes; finish your answer.

A. I never paid any particular attention to the original quotations made; it was the final quotations that interested me, and they varied.

Q. Would these quotations be followed by any dickering?

A. Oh, yes, for weeks.

Q. Would you dicker in flush times, or only in bad times?

A. I dicker always.

Q. And since 1907, when you, yourself have been doing that dickering, have you ever in any year placed your contract at the original figures of any bidder?

A. Not that I recall, and I think I would recall it if such a thing had happened.

Q. Did you dicker with one or more than one??

A. I would dicker with three or four, playing them off one against the other.

Q. And you found that successful?

A. Sure.

Q. Has the competition for your business been active or otherwise?

A. Well, among Ridgley, acting for the Inland Steel, the Republic Iron & Steel and the Carnegie Iron & Steel for the east, and the Illinois to the west, it has been very active. The Lackawanna, the last time I think I let a contract, they tried very hard to get a part of it, but they would not come down to the price that I wanted to give and the price that other people were ready to make.

Q. Did you place that contract at your own figure?

A. Sure.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Do you usually buy, Mr. Gallagher, by contract or purchase from time to time as your emergency demands?

A. All these plates or bars for backs we buy by annual contract.

Q. About what tonnage did you buy for the year 1913?

A. I think it was 10,000 or 12,000 tons.

Q. Did you have more than one contract for that?

A. Oh, yes. In 1913 we had three.

Q. When were they made?

A. I should have to refer to the contracts.

Q. About?

A. My recollection is during the early fall of 1912.

Q. All of them; all three?

A. Yes; they were all made at the same time. They were all made within a day or two of each other.

Q. About the same time?

A. Yes.

Q. State with whom they were made, will you?

MR. LINDABURY: I did not get the date, Judge.

MR. DICKINSON: The fall of 1912. He said there were three contracts——

THE WITNESS: There were four contracts, I should say: One with the Carnegie Steel Company; one with the Illinois Steel Company; one with the Republic Iron & Steel Company; one with Charles A. Ridgeley, who got his stuff from the Inland Steel Company.

By MR. DICKINSON:

Q. What tonnage was covered by the Carnegie contract?

A. I should have to refer to the contract. I should say about 2,000 tons.

Q. And the Illinois?

A. About the same.

Q. And the Republic?

A. Three or four thousand tons.

Q. And the Inland?

A. About 2,000, I should think. Those are largely guesses, you know.

Q. I understand; approximately correct?

A. Yes. I can give you the contracts, if you want to see them.

Q. Now, you stated, Mr. Gallagher, that you paid very little attention to the original quotations. Why was that?

A. The purchasing agent attended to the original quotations. When he got through, then I got in.

Q. He threshed them over?

A. He got them down as low as he could, and then he turned them over to me to put on the finishing touches.

Q. He turned them over to you in partly finished form?

A. Yes; and I put on the finishing touches.

Q. When they would get to you, I suppose they would get somewhat down to a basis where you would consider certain of the bids?

A. Oh, sometimes, Judge; sometimes not.

Q. What do you mean by "sometimes"? I don't catch that.

A. Sometimes the purchasing agent would do a little better than at other times. Sometimes he would get them down pretty low, and at other times not, and I had to do more work.

Q. He would submit to you the lowest ones?

A. He would submit them all to me.

Q. But you paid no particular attention to the high ones?

A. Sure. I would try to get them all to come down.

Q. He would take the original quotations, would he?

A. Yes, sir.

Q. And then he would do a good deal of work on them, and frequently get them to reduce?

A. If you would like to have me, I will tell you just exactly what happened, in detail, Judge.

Q. Yes; I should be very glad if you would.

A. The purchasing agent would be instructed by me to ask for quotations at the time I thought the market was right, or at the time that we absolutely had to contract for our requirements. He would send out to a lot of different companies requests for quotations, stating what he wanted and how much he wanted. He would get, usually, half a dozen answers—he would get answers to all, but half a dozen quotations. He generally would tell me what those quotations were, and I would say, "Well, go ahead and see what you can do with them."

Then he would see them for a while, and finally get the

quotations as low as he could, and then he would bring all the quotations to me, and then I would try to get them down.

Q. Where they had all come down from original quotations, you did not bother any more about that, I imagine?

A. Yes; I always bothered. I never knew when they had got to the bottom.

Q. I don't think you quite caught my question. I say, when he had gotten them below the original quotations that they had made to him, then you had no further concern about those original quotations, but you tried to get them down lower than what he had achieved?

A. Sure.

Q. In respect to these contracts made with the Carnegie, the Illinois, the Republic and the Inland——

A. It was not the Inland; it was Charles A. Ridgeley.

Q. Ridgeley, who represented the Inland?

A. Yes.

Q. Were they all of the same character of steel products?

A. They were all except the Ridgeley. Ridgeley—the Inland Steel—did not roll the wide bars, and Ridgeley only bid on the 25/8 bars.

Q. You made these other contracts with the Carnegie and Illinois and the Republic about the same time?

A. Yes, sir.

Q. And the same class of things?

A. Yes, sir.

Q. Were the prices the same in each of those contracts?

A. The prices of the Carnegie, and the Illinois Steel and the Republic Iron & Steel—the prices of the contracts, were all the same, because I forced them all down to one level. Ridgeley was almost always—in fact, I think always—a little under all of them.

Q. As to these contracts now, where the contract price was all the same, do you now know on those contracts what the first quotations were, made by the Carnegie, Illinois and Republic?

A. No; I do not pretend to charge my mind with separate quotations for six or seven years, Judge. I could get them for you.

Q. I understand. I am just asking you now what you know, and what you undertake to say about that.

A. I don't recall what the original quotations were.

Q. You do not know what their relation was to each other, either?

A. Merely the general recollection that in boom years they were apt to be very similar, almost all at the top of the market, and in bad years, when the companies were searching for business, my recollection is—subject to correction by referring to the papers themselves—that they varied.

Q. You said "very similar." You mean that they were alike?

A. No, I mean just what I say, Judge—very similar.

Q. You said the "top of the market." What do you mean by "market"?

A. Oh, the standard prices at Pittsburgh.

Q. What do you mean by the "standard prices"?

A. The market prices at Pittsburgh.

Q. Well, how would you know what the market price was?

A. It is quoted all over.

Q. Where is it quoted all over?

A. In the Iron Age; almost all the trade papers.

Q. And in times when business was good and there was a demand, those would be similar to each other, and the top of the market price?

A. Usually. Well, frequently it is the top of the market.

Q. What do you mean by the top of the market, the ruling standard price?

A. The ruling price on the market without any discount.

Q. That was the net market price?

A. The net market price.

Q. And quoted in these papers?

A. That is my recollection.

Q. Did those prices continue over long periods when they would be substantially the same?

A. What do you mean?

Q. I mean to say that during any of those years would not the prices continue the same, these standard market prices, as you call them, for weeks at a time and months at a time?

A. My dear sir, I never pay any attention to that. After I get my contracts let I do not care what the market did.

Q. And you did not bother until the next time?

A. No, sir.

Q. In 1912 how many contracts did you have?

A. Four.

Q. With what companies?

A. You just asked me that.

Q. That is to say, made in 1912, but for 1913.

A. 1911, you mean, 1911 and 1912?

Q. 1911 and 1912, yes.

A. I think we had a contract—I am sure we had a contract with the same people.

Q. Do you know how it was distributed?

A. About in the same proportion, sir.

Q. Was the price the same?

A. No; originally it was lower.

Q. I mean with the exception of originally, were the others the same?

A. Yes.

Q. Do you know what the first quotations of Carnegie and Illinois were?

A. No.

Q. Nor what relation they bore to each other?

A. No, sir; I could find it out for you.

Q. I do not want to stop for all that.

A. No, sir.

Q. Do you remember what the standard market price was at that time?

A. I haven't any idea.

Q. Nor what relation those bids bore that year to the standard market price?

A. Not in the least.

Q. Now, Mr. Gallagher, I do not think I will confuse you by asking a general question.

A. Not a bit; if you do I will tell you.

Q. Suppose I were to ask these same general questions in regard to contracts for the year 1909 and 1910; would your

answers be the same? I will say, with the exception of contracting with the same people?

A. Yes, sir.

Q. Do you remember a cut in the price of bars in 1911?

A. I can get that for you; I can easily show you the contract.

Q. I am not speaking of your contract, I mean the market prices.

A. No.

Q. You don't remember that?

A. No.

Q. Take 1907. Have you any recollection as to how many of the original quotations on any of the contracts were alike, and how they varied?

A. None whatever; I had not much to do with it in 1907.

Q. For 1908?

A. I cannot give you that. I could get it from the papers that have the bids in, but I do not charge my mind with those things.

Q. But the papers would not have the quotations made to you.

A. Absolutely.

Q. You mean your own papers?

A. Yes; our files.

Q. How about 1910?

A. The same answer.

Q. Now, in 1907 what proportion of your requirements did you get from subsidiaries of the United States Steel Corporation, Carnegie and Illinois?

A. My recollection is that we did not get any.

Q. How about 1908?

A. I do not think they got any in 1908; there might have been a small part of it.

Q. Do you know whether they bid in those years?

A. I think they always bid.

Q. That is your general recollection, not a particular recollection?

A. I haven't any particular recollection of those years.

Q. Did you give the percentage in 1909? I do not know whether I asked you that or not, from Carnegie and Illinois?

A. No; I cannot tell you that without referring to the contract itself. I may say that during the earlier years of our company, from 1902 up until 1908 and 1909 the subsidiaries of the Steel Corporation either got nothing or very little. Early in our history we bought from Arthur J. Lockman, of New York; we were then using only a comparatively small amount.

Q. What year was that?

A. That was, I should say, along about 1902 or 1903. After that we bought from Ridgeley, who was a broker representing at that time the Republic Iron & Steel Company, and we bought all our requirements from him for several years. Then the Republic Iron & Steel Company dispensed with his services, and my recollection is that in 1907 or 1908 the Republic got our contract itself after a very sharp fight, and then my recollection is that after that the subsidiaries of the United States Steel Corporation began to get a little, and it has gradually grown until I think they get about one-third.

Q. Now you stated that Jones & Laughlin usually wrote to you and stated that they were not in a position to quote.

A. Something like that.

Q. Was there anything in their geographical situation that controlled that?

A. I never knew the reason.

Q. I am just asking for your knowledge of the situation.

A. I do not know.

Q. You know where Jones & Laughlin were situated?

A. Yes.

Q. They were situated as conveniently to you as the Carnegie?

A. Absolutely.

Q. Or as the Republic?

A. Yes; I do not know why they did not want to bid.

Q. Did anybody else ever make such a reply as that to you?

A. Oh, a lot of them; Worth Brothers very frequently, and I think the Lackawanna did several times, and the Cambria has a number of times.

Q. Now, as a matter of fact you have not bought from the Lackawanna?

A. No, sir.

Q. Nor the Cambria either?

A. No, sir.

Q. And you do not know whether they ever bid?

A. The Lackawanna bid last year; I remember it very well.

Q. But before that?

A. No, I could not be certain without referring to the papers.

Q. You do not know the number of times that they made this reply that in substance they were not in position?

A. No.

Q. Nor the Cambria?

A. Not without referring to the papers themselves.

Q. But you always solicited them, did you?

A. Yes; we solicit everybody that we think we can get to compete in this business.

REDIRECT EXAMINATION

By Mr. Reed:

Q. You say the Lackawanna bid for this year's business?

A. For the last letting, the fall of 1912.

Q. They did not get any part of the contract, did they?

A. No, sir.

Q. Did they reduce their first bid that they made?

A. Yes.

Q. Didn't they reduce far enough?

A. No, sir.

Q. They refused to come down as far as the others did?

A. They did.

Q. Is that why they didn't get any?

A. That is the reason. I wanted to give them some, and there were certain business reasons why we should have given them some if we could have gotten equally good terms, but we could not get them.

FAIRFAX S. LANDSTREET

was called as a witness on behalf of the defendants, and, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Mr. Landstreet, where do you live?

A. New York.

Q. What is your present business; perhaps you have various businesses? I don't know.

A. I am vice president of the Consolidation Coal Company.

Q. Without mentioning any other, I will ask you if you have any other business than that.

A. Yes, sir; I am president of the New York Dock Company, a New York Company here, and of the New York Dock Railway.

Q. I meant to ask you about those; those are your businesses, are they?

A. Yes, sir.

Q. How long have you been vice president of the Consolidation Coal Company?

A. A little over three years.

Q. How long have you been president of the New York Dock Company?

A. For six years.

Q. And of the Railway Company?

A. Three years.

Q. What is the Dock Company? I mean, is it a company owning any docks?

A. The company owns some 40 odd piers on the East River in New York.

Q. And what is the Railway Company?

A. The Railway Company operates in connection with the piers and the warehouses, and extends along the East River water front on the Brooklyn side.

Q. Are these docks on the Brooklyn side of the East River?

A. Yes, sir.

Q. Are their warehouses owned by the Dock Company or are they owned by somebody else?

A. Owned by the Dock Company.

Q. Part of the same outfit?

A. Yes, sir.

Q. What is the Coal Company?

A. The Coal Company is a Maryland company operating coal mines.

Q. Where are its mines?

A. In West Virginia, Maryland, Pennsylvania, Kentucky.

Q. What kind of coal does it mine?

A. Bituminous coal.

Q. Does it have any coking coal?

A. Yes, sir.

Q. Coking coal lands?

A. Yes, sir.

Q. Is its output of bituminous coal large or small?

A. We think it is large; about 14,000,000 tons.

Q. How does it compare with the output of the other bituminous coal companies? Is there any other as large?

A. There is one other larger producing company.

Q. What is the name of that?

A. The Pittsburgh Coal Company.

Q. Next to that, yours is the largest?

A. Yes, sir.

Q. And about the coking coal lands: do you own much of that kind of property?

A. We own 120,000 acres.

Q. Of what?

A. Of coking coal.

Q. What kind of ovens is that suitable for coking in?

A. For both bee-hive and by-product ovens, but more particularly adapted to by-product ovens.

Q. Have you those mines fully developed, or are they in process of development?

A. They are in process of development, and their output is now exceeding 1,000,000 tons a year.

Q. When the process of development is completed, how

will the output compare with that of other coking coal companies?

A. I think it will largely exceed the tonnage of any other coking coal producer.

Q. Have you any estimate of the tonnage in your coking coal fields?

A. I have not. It is a very simple calculation.

Q. How many tons to the acre?

A. There are 12,000 tons to the acre, and 120,000 acres.

Q. Are you supplying any of the ovens with coking coal, any of the Steel Corporation's ovens?

A. The Illinois Steel Company, at Gary, are purchasing from us this year.

Q. When did you begin your mining of coking coal?

A. Two years ago.

Q. In what part of Kentucky is that coal?

A. It is in eastern Kentucky.

Q. Do you remember the county or counties in which it is found?

A. In Letcher and Pike counties.

Q. Does your company own any lands in West Virginia?

A. Yes, sir; a large area in West Virginia.

Q. How much do you own there in that state?

A. I think 105,000 acres.

Q. And is any of it located near the Klondike region?

A. It is just south of the Klondike region.

Q. That is a great coking locality, isn't it?

A. Yes, sir.

Q. And is your land there coking land, too?

A. Yes, sir.

Q. There seems to be considerable of coking land in that general territory, isn't there?

A. I think there is more in West Virginia than there is in Pennsylvania.

Q. Now, have you had occasion either for the Consolidation Company or for the Dock and Railroad Companies to purchase steel products?

A. The purchasing of these products of all three companies has been under my general direction.

Q. Of course you have only been purchasing for the Consolidation Company for a few years, I take it?

A. That is all, sir.

Q. For which of the companies did you first make purchases?

A. The New York Dock Company.

Q. And in what year?

A. In 1907.

Q. And when did you begin purchasing for the Railway Company?

A. That is only in the past two years.

Q. In what year did you begin purchasing for the Consolidation Company?

A. In 1910.

Q. Have you made purchases for the Dock Company during each of the years since you began making them, down to the present time?

A. Yes, sir.

Q. What have you bought for that company?

A. Do you mean the volume or the character?

Q. I mean of steel products.

A. Bars, plates—those are the principal purchases for that company, and structural steel.

Q. Can you give me an approximation of the total tonnage each year during that course of years? This is now for the Dock Company, you observe.

A. I should say it was under $100,000 a year for that company.

Q. And has it been pretty much the same each year, or has it varied widely?

A. It has varied.

Q. I assume it has varied, but I wondered whether $100,000 would be the approximate amount for each year.

A. No; our purchases last year would exceed $400,000 for the year, on account of construction.

Q. Was there any other year when it would much exceed $100,000?

A. I should say for 1911 and 1912—1911 was in the neighborhood of $300,000, and I should say 1912 was about $400,000.

Q. And how would you approximate 1910?

A. Not exceeding $100,000.

Q. Did it exceed $100,000 in any previous year?

A. No, sir.

Q. Now, with respect to the Railway Company: since that is so closely connected with the Dock Company, what have the annual purchases for that company been during the two years you have been making purchases, in tonnage or in value?

A. About $75,000.

Q. And what steel products did you purchase?

A. Spikes, rails and bars.

Q. What kind of rails—girder rails or standard rails or what?

A. Standard rails; steel rails.

Q. And bars?

A. Bars—steel bars.

Q. What has been the tonnage which you have purchased for the Consolidation Company or the coal company, I will call it?

A. That is, of all steel products?

Q. Yes; I am asking about nothing but steel products.

A. That will run from $500,000 to $750,000 a year.

Q. Has it varied during these three or four years you have been purchasing agent? Which was it—three or four years?

A. Three years.

Q. Has it varied?

A. Very little in amount except in the past year.

Q. Has it been more or less?

A. It has been a good deal more during this past year.

Q. How much, about, during the past year?

A. I think it would go up to a million; probably a million and a quarter dollars during the past year.

Mr. Dickinson: What do you mean by the past year—1912 or 1913?

By Mr. Lindabury:

Q. What do you mean?

A. I mean the year 1912.

Q. The calendar year?

A. The calendar year.

Q. And, as it is nearly closed, you are speaking of what it will amount to by the end of the year and estimating for the last two weeks?

A. Oh, our purchases for 1913 are not as heavy as for 1912.

Q. I see; your purchases were made early?

A. Yes.

Q. What products have you purchased for the Consolidation Company?

A. Pretty much every kind of steel product—plates, bars, rail, spikes, structural steel.

Q. Have you purchased any tubes?

A. Tubes, pipe.

Q. I use the term tubes as including pipe. Do you distinguish between tubes and pipe?

A. We distinguish between boiler tubes and pipe.

Q. Do you buy both?

A. We buy boiler tubes and pipe.

Q. I am not a steel man and I am only doing the best I can to make myself understood. You buy considerable pipe, do you?

A. We buy considerable pipe, yes, sir.

Q. What articles do you purchase in the largest quantity? If you have doubt in your mind between two or three, state that.

A. Well, I should think light rails is the largest, probably; —the largest single expense.

Q. Next to that would be what?

A. Next to that would be pipe.

Q. What next to that?

A. Plates.

Q. That will do for that.

Have your purchases for the Consolidation been upon con-

tracts for future delivery, or from time to time to meet immediate requirements, or have you purchased both ways?

A. Very largely from time to time, but on several products it is done on a year's contract.

Q. Many of them are embraced in or covered by yearly contracts?

A. Yes.

Q. Have you an idea what percentage have been procured under yearly contracts?

A. I think probably only two of our products are covered under yearly contracts.

Q. Has it or not been your practice to get quotations before your purchases, whether on yearly contracts or otherwise, if the contracts were for considerable amounts?

A. We got quotations from all suppliers.

Q. What do you mean by "all suppliers"? Do you include jobbers, or do you mean all manufacturers, or some of each?

A. We take all manufacturers and a few jobbers.

Q. You are speaking now of the Consolidation Company?

A. All three of the companies; any of them.

Q. Are the purchases under your entire control for all three of the companies?

A. Yes.

Q. And do you pursue the same system in purchasing for each?

A. Yes.

Q. Both as to contracts and purchases for immediate use?

A. Yes.

Q. You don't combine the purchases, I imagine?

A. No.

Q. Have the quotations that you have received from the various concerns in the pursuit of the system you have alluded to, generally been the same or different?

A. You mean the price?

Q. Yes. Have the different competitors quoted you the same or a different price?

A. There is very seldom the same price quoted.

Q. From about how many, if you could average it, have you received quotations?

A. It would depend upon the number of manufacturers engaged in the particular lines.

Q. Running all the way between what?

A. In bars and plates there are about seven different manufacturers that we get quotations from and buy from.

Q. And rails?

A. In light rails I suppose there are six or seven.

Q. And pipe?

A. In pipe there are, I should say, five or six.

Q. In your answer as to pipe do you include tubes? I suppose you get tubes from the same people?

A. We get tubes from practically the same people.

Q. Would your answer as to pipes cover tubes?

A. Yes.

Q. Did you sometimes find two quotations alike?

A. Yes.

Q. Did you often find more than two among these?

A. I don't think I ever found more than two.

Q. You do not recall that you ever have?

A. No.

Q. And were the variations often considerable between the bids?

A. When prices are high, I have found considerable variation, and when they are very low, very little, although a variation; I mean, the spread in the prices.

Q. The spread has not been so great?

A. When prices are very low it is not so great as when they are quite high.

Q. Do they reach rock bottom pretty nearly?

A. There is always enough difference in the quotations.

Q. Do you ever negotiate with the bidders after receiving the quotations?

A. Yes, sir; generally.

Q. And with what result?

A. We usually get some little concession from the quotation price.

Q. Do you ordinarily negotiate with only one bidder, or do you take the matter up with more than one?

A. We take it up with all of them.

Q. Do you find ordinarily that all of them are ready to dicker with you?

A. We find ordinarily that all of them are ready to dicker. All of them are not ready to concede our position.

Q. Is it the rule that some one or more are ready, if not to concede your position, to give up theirs?

A. Practically always.

(Whereupon an adjournment was taken until to-morrow, Thursday, December 18, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND THIRTY-THIRD DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Thursday, December 18, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. BOLLING and MR. REED.

FAIRFAX S. LANDSTREET,

the witness under examination at the taking of adjournment, resumed the stand.

DIRECT EXAMINATION (Continued)

By MR. LINDABURY:

Q. Have you made a personal examination of the New River coal field; if so, how many acres in that field have you personally examined?

A. Between 350,000 and 400,000 acres.

Q. Is all of that coal bearing?

A. Yes, sir.

Q. Is that coking coal?

A. Yes.

Q. Of good quality?

A. Yes, sir.

By MR. REED:

Q. Is that coal now being coked, Mr. Landstreet?

A. Yes, sir.

Q. In what kind of ovens?

A. In both beehive and by-product ovens.

Q. How long have they been coking it in beehive ovens?

A. About 16 or 17 years.

Q. Does that land carry more than one vein of available coking coal?

A. A large majority of it carries two veins.

Q. Are both veins being worked?

A. Both veins are being worked; yes, sir.

Q. What is the average thickness of the workable coal in each vein?

A. I think the average would be about five to five and a half feet.

Q. What tonnage of coal per acre would that yield?

A. About 7,000 tons to the acre.

Q. So far as you know, is the Steel Corporation interested in that district?

A. I do not know of their having any interest in it.

Q. They are interested in the Pocahontas District, are they not?

A. Yes, sir.

Q. How far does that lie, generally speaking, from the New River district?

A. The two regions are parallel and touching in a great many places.

Q. They are practically two parts of the same general district, are they not?

A. Yes, sir.

Q. And both districts contain good coking coal?

A. Yes, sir.

By Mr. Lindabury:

Q. Just another question that I reached last evening. In your purchases of rails have you found any competition as to service or quality among the manufacturers?

A. Yes, sir; always.

Q. Has it been urgent and strong?

A. Quite urgent.

Mr. Lindabury: That is all.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Mr. Landstreet, when did you first examine any part of this three or four hundred thousand acres of New River

coal land with a view to ascertaining the extent and quality of the coal?

A. 1893 was my first trip.

Q. How long were you in making that examination?

A. About two months.

Q. How much of that three to four hundred thousand acres did you go over?

A. I made my first trip very hurriedly through in a car, and then took it in detail afterwards. I suppose in three months in that particular trip I examined 150,000 acres.

Q. How much of that was in operation; that is to say, how many operating mines were there that you examined at that time?

A. I went through about 15 or 16 mines at that time.

Q. Do you know what the output was then at that time?

A. No, I could not say; the mines were all very small.

Q. Does all of this three to four hundred thousand acres bear coal, and is it uniformly distributed?

A. I do not say it is entirely uniformly distributed; it varies in quality in some sections and varies in thickness of coal.

Q. In other sections?

A. Yes, sir.

Q. Is it a hilly or mountainous country?

A. Very mountainous country.

Q. Are there valleys?

A. Valleys and quite high hills.

Q. Does the outcrop of the coal come down to the foot of the valley or is it on the side of the hills?

A. Sometimes it is down next to the water, and sometimes under water, and sometimes high in the hills.

Q. That occurs variously over this area?

A. Yes, sir.

Q. There are a good many square miles, aren't there, in three or four hundred thousand acres?

A. A great many; yes, sir.

Q. And it is in several counties, is it?

A. Yes, sir.

Q. What was the output of coke from the New River coal field in 1901?

A. I cannot tell you.

Q. 1902?

A. I don't know that.

Q. What is the first year that you could tell me, from this year back?

A. I do not know that I could state except approximately any year.

Q. Which is the closest year to the present time that you can give an approximate statement in respect to that?

A. I could not give you an approximate figure.

Q. Do you mean to say, Mr. Landstreet, that every acre of this three to four hundred thousand has 7,000 tons of coal on it?

A. I should take that as an average of the field, yes; some of the acreage would yield more and some less.

Q. Have you had any surveys of that whole 400,000 acres, and taking the proportion of hills and valleys, have you made any estimate that could in any sense be regarded as reliable; if so, when did you make it?

A. I made my first trip in there in 1893; I have made about four trips since.

Q. Well, did you have surveys of all that 300,000 or 400,000 acres?

A. There are surveys, maps and geological reports, and in a great many cases engineers' reports.

Q. At any time did you take all those reports of data and figure from them what proportion of this land was coal-bearing and what proportion was not, and if so, when did you do that?

A. I did not take it combined as to the 350,000 or 400,000 acres, but I took each part of the tract of land that was under examination and made an estimate on that particular tract.

Q. How many particular tracts did you have under examination in that way that you have described?

A. I suppose in the 350,000 or 400,000 acres there are 200 to 250 different tracts of land.

Q. Comprising how many acres?

A. That would comprise 350,000 or 400,000 acres total.

Q. And you mean to say you made an examination of all this 350,000 or 400,000 acres; is that what you state?

A. I have been all over it.

Q. I know, but I mean where you took reports and data and made from them an estimate of the acreage. Did you ever do that?

A. Yes.

Q. When did you do that?

A. That was partly done in 1893, and partly done on various trips after that time.

Q. Did you make an estimate in 1893 of the coal tonnage in all this 350,000 to 400,000 acres?

A. No, not at that time.

Q. When did you do that, if ever?

A. I made that calculation—in giving the statement that I have examined 350,000 or 400,000 acres, I made an examination of that comprised acreage since 1893.

Q. What I want to get at is the year and the time.

A. On my first trip in there in 1893 I examined 80,000 acres.

Q. Are you interested, or have you been interested, directly or indirectly, in the ownership, I mean, in all this acreage?

A. I have no interest whatever in that region.

Q. Are you a geologist?

A. A half-way one.

Q. Did you in 1893 operate any coal mines?

A. I was operating coal mines at that time.

Q. Where was that?

A. In West Virginia.

Q. What position did you hold?

A. I was general manager.

Q. Had you done any expert work as a geologist or as an engineer?

A. I had done some engineering, and I had been making it a practice to examine properties for our people wherever they sent me.

Q. Are you an engineer by profession?

A. Yes.

Q. Now, what proportion of this 350,000 to 400,000 acres have you examined as a representative either of your own interests or of people who were interested in that company?

A. All of it was examined with that view.

Q. For whom did you make this examination, and with what view?

A. Part of that I do not care to answer unless it is insisted on.

Q. Well, when did you make this last examination of this land, and how much of it did you examine?

A. My last examination was three years ago.

Q. How much of it did you examine?

A. There were about 30,000 acres at that time.

Q. Did you examine that with a view of selling it or with a view to purchasing it? Which side did you represent?

A. I was on the purchasing side.

Q. Did they purchase it?

A. No, sir.

Q. And you only examined, then, about 30,000 acres?

A. On the last trip.

Q. When was your next examination before that?

A. I think about three or three and a half years ago.

Q. How much did you examine then?

A. I think 120,000 acres altogether.

Q. How long a time did you devote to that?

A. From ten days to two weeks.

Q. Ten days to two weeks, and you examined 120,000 acres?

A. Yes.

Q. How many openings on that 120,000 acres did you examine at that time yourself?

A. I suppose 50 to 60.

Q. What acreage did that cover? I mean, so far as entries went. How much territory was developed by entries?

A. Well, practically the entire territory had entries scattered over it; openings—I do not mean entries, but the facing of the coal on the hillside.

Q. You do not mean to say that those entries were all through 120,000 acres?

A. No. As I said, it is merely the facing of the coal on the hillside where it came to the surface.

Q. That was the character of examination you made?

A. Yes.

Q. How far did those entries go in; do you know?

A. I doubt if any of them went in 50 feet.

Q. Does that coal always run along uniform, or are there squeeze-outs?

A. There are lots of squeeze-outs in it.

Q. Sometimes entries go in and have to be abandoned, do they not?

A. Yes.

Q. You spoke of the process of development in West Virginia on 120,000 acres of land of coking coal, and when it was completed, as to how the output would compare with that of other coking coal producers.

A. Excuse me; that is Kentucky you have in mind.

Q. You were asked about a coal company, the Maryland Coal Company, operating in coal mines. Where does that company operate coal mines?

A. West Virginia, Maryland, Pennsylvania and Kentucky.

Q. Now, these 120,000 acres that you spoke of are all in Kentucky?

A. We have 120,000 acres in Kentucky.

Q. Was that what you spoke of when you said that the output now exceeds a million tons a year?

A. Yes.

Q. Now, with respect to that, the question was asked "When the process of development is completed, how will the output compare with that of other coking coal companies?" and you answered "I think it will largely exceed the tonnage of any other coking coal producer." Explain what you meant by saying that it would largely exceed the tonnage of any other coking coal producer. When will it exceed it, when that process you have in mind will be completed?

A. The plants are under process of construction. We have now reached a million tons of tonnage, and we estimate in five years that we will reach ten million tons.

Q. In five years?

A. Yes.

Q. Then in five years from now—is that what you contemplate when you spoke of the process of development?

A. Yes.

Q. It is now a million tons?

A. Something over.

Q. That is coal, not coke?

A. Coal.

Q. Now, what is the first year that coke was made from that coal, and what was the output of it?

A. That is, from Kentucky coal?

Q. Yes, that particular mine that you are talking about?

A. Commercially, it was not made until two years ago.

Q. How much coke was the output of that mine two years ago?

A. The mine had just started producing two years ago.

Q. What do you mean?

A. I do not think we produced over 100,000 tons two years ago.

Q. Of coke?

A. I do not think the total production two years ago was over 100,000 tons.

Q. Do you mean coke?

A. No, coal.

Q. What about coke?

A. We do not manufacture coke in that field at all. It is sold for coke making; we do not manufacture the coke.

Q. Do you know of your own knowledge whether that is used for coke?

A. Yes.

Q. Where?

A. It is used by the Inland Steel Company, by the Illinois Steel Company, and the Semet-Solvay Company at Detroit.

Q. How long has the Illinois Steel Company been making coke from that coal?

A. A little over a year.

Q. And the Inland?

A. Within the last year.

Q. Take your purchases now for the Dock Company for which you have been buying, including and since 1907, what was your total purchase in 1907 for that company, of steel products?

A. That would not exceed $100,000.

Q. You could not give the tonnage?

A. No; I could not.

Q. Well, now, that year what various steel products did you purchase?

A. Structural steel.

Q. What else?

A. Plates, nails and bars.

Q. From whom did you buy your structural steel in 1907?

A. I could not tell you the company; it was one of six or seven.

Q. From whom did you buy your plates for that year?

A. It was either Lukens Company or Worth Brothers.

Q. From whom did you buy your nails that year?

A. I do not recall.

Q. From whom did you buy your bars that year?

A. I could not tell you that.

Q. Do you know what companies quoted you that year on structural steel and what the quotations were on any of your purchases?

A. I do not know the price quoted by any of them.

Q. Do you now carry in your mind a distinct recollection as to what particular companies gave you quotations on structural steel in 1907?

A. Our custom then, as it is since, was to ask quotations from all structural manufacturers.

Q. You do not always get them from all you ask, though, do you?

A. Practically all.

Q. Do you know from whom you asked quotations on structural steel in 1907?

A. I do not know in that particular year.

Q. Well, just name now as many as you know that you did get bids from on structural steel in 1907?

A. Carnegie Steel Company, Bethlehem Steel Company, Pennsylvania Steel Company; that is all I can recall now.

Q. Do you know how many purchases you made of structural steel in 1907?

A. No, I do not; but generally I should say five or six different purchases.

Q. Did you make them for that year under contract?

A. No.

Q. No contract that year?

A. No, sir.

Q. You made them as occasion required?

A. As occasion required, when the orders came in.

Q. Can you give any bids that were made on any particular purchase?

A. You mean the price?

Q. The price they offered to sell you at.

A. No, I could not give you the prices.

Q. Were these bids delivered to you or not?

A. Delivered to our purchasing agent.

Q. To your purchasing agent?

A. Yes, sir.

Q. What I mean by that is did the bid include freight paid by the seller?

A. In some cases it included freight and in other cases it did not.

Q. Can you tell for 1907 how many of those bids included freight and how many did not?

A. No; I could not tell that.

Q. Can you give us any information from recollection as to the relation those bids bore to each other on any of those purchases?

A. Those bids were all figured on an equal basis; when they quoted freight it was taken as a final basis; when they did not the freight was added and the competitive figures were made finally delivered at the property. My recollection of the conditions is, I am very certain that there were no two of them that were close enough to be alike.

MR. DICKINSON: Will you repeat that question?

(The stenographer thereupon repeated the question as follows:)

"Q. Can you give us any information from recollection as to the relation those bids bore to each other on any of those purchases?"

By MR. DICKINSON:

Q. The only information that you have given——

A. (Interposing) I am very sure there were no two of them that were alike.

Q. Do you remember what any of them were?

A. I cannot give you the figures.

Q. Have you any particular recollection in regard to any of them, that no two were alike?

A. Yes, sir.

Q. Do you say that you carry that in your mind?

A. Yes, sir.

Q. What transaction was it and when was it that you now remember that no two of the bids were alike in 1907?

A. I recall the fact from the reason that my attention would have been attracted to it if they had been.

Q. Do you carry in your mind all the bids and their relation to each other that you had the last six or seven years?

A. Pretty generally, yes.

Q. But you cannot give us a single bid on any contract that you received from any bidder in 1907?

A. No, I could not give you the figures; no, sir.

Q. Now, take plates: From whom did you purchase plates that you now know in 1907?

A. I do not know positively whom we purchased from.

Q. Do you know the tonnage that you bought in plates?

A. No; I do not know the exact figures.

Q. Do you know how many various purchases you made in plates?

A. I should say four to five.

Q. Do you know what percentage any of these bore to the total purchases of that year?

A. Probably in about equal amounts, the purchases that I made.

Q. You say probably; have you any recollection as to the amounts?

A. No.

Q. Do you now carry in your mind any recollection of who quoted you on any of these purchases in plates in 1907?

A. I think I stated that.

Q. I asked you before about structural; now I am asking you about plates.

A. I beg your pardon. I told you about plates, that we had purchased, according to my recollection, from Worth Brothers and the Lukens Iron & Steel Company.

MR. DICKINSON: I think I asked you about quotations then. Will you read my last question?

(The stenographer thereupon read the question as follows:)

"Q. Do you now carry in your mind a recollection of who quoted you on any of these purchases in plates in 1907?"

A. We purchased, I don't know from which one, but one of the parties named that I stated had quoted on plates. My recollection now is that Worth Brothers supplied the plates.

Q. Then of course you got a quotation from them?

A. Yes, sir.

Q. Can you name anybody else that you got a quotation from that you now remember?

A. We asked for quotations from all the manufacturers.

Q. That was your general practice, was it?

A. Yes.

Q. But I am asking now if you remember who quoted you on any of these contracts in 1907?

A. No; with the exception of Worth Brothers and Lukens, that I know quoted.

Q. Do you know what you paid Worth Brothers?

A. No, I do not.

Q. Do you know what you paid for your purchases on structural steel in 1907?

A. No, sir.

Q. How many purchases of nails did you make in 1907?

A. I suppose three or four.

Q. How many kegs would that amount to in the year?

A. It would probably amount to three carloads.

Q. Do you know from whom you purchased nails in 1907?

A. No, I do not.

Q. Do you know from whom you got quotations on nails in 1907?

A. We got quotations from five or six different manufacturers.

Q. Just name the five that you remember that you got quotations from, if you do remember?

A. The American Steel & Wire Company and a company at Wheeling, West Virginia, the name of which I do not recall.

Q. Is that all you remember?

A. That is all I remember now.

Q. You remember that you got quotations from those two, but you don't remember from whom you bought nails that year?

A. No, I do not.

Q. Did you get quotations from these two on all the transactions, or more than one of the transactions?

A. We got quotations from five or six different concerns.

Q. Did you mean you got five or six throughout the year, or five or six on every one of these bids?

A. We had five or six firms on our books from whom we asked for quotations in every case.

Q. I understand that, but I am asking not what you asked, but what quotations you got?

A. We always got from three to four quotations; never less.

Q. Do you know whether the American Steel & Wire Company and this concern at Wheeling bid on all of them, or bid on only some of them?

A. I think on nails we have always been quoted on all of them.

Q. By those two?

A. By those, as well as the others.

Q. What others?

A. I cannot recall the names of the other manufacturers.

Q. Take bars: what tonnage in bars did you buy in 1907?

A. I should think about, in value, $50,000 worth.

Q. Take your entire purchase of structural, plates, nails and bars; which was the largest percentage of those, of the entire amount?

A. Structural steel was always the largest of those.

Q. What did you buy in structural steel in that year, in dollars?

A. I could not recall.

Q. It was more than $50,000 worth, was it?

A. I should think so.

Q. And in plates how much?

A. I could only give you the approximate figures in plates.

Q. What would they be?

A. They did not exceed $50,000.

Q. Then, in nails?

A. We bought three or four carloads.

Q. What would that be?

A. I don't know that I could tell you, offhand, what that would amount to.

Q. Then you may have bought that year in excess of $150,000 worth of all those?

A. It would depend entirely upon the character of work that we were doing, as to the amount of material that we used.

Q. I am not asking you as to the character of the work you were doing, but I am asking you just what you say you bought that year?

A. I could not give you the exact figures.

Q. Can you give it approximately? Have you given it approximately, to the best of your recollection?

A. I have given it approximately, to the best of my recollection.

Q. Was this structural fabricated or unfabricated?

A. Part of it was fabricated and part of it was unfabricated.

Q. What proportion of it was fabricated?

A. I couldn't tell you.

Q. Did the same people bid on the fabricated that bid on the unfabricated?

A. Some of them did.

Q. Just say, now, who bid on the fabricated in 1907?

A. I could not tell you.

Q. Could you name anyone that you know bid on the fabricated structural in 1907?

A. I know that the McClintic-Marshall Company did.

Q. Could you name anyone else?

A. I could not name any other.

Q. In 1908 what value or tonnage did you buy in structural—do not use that memorandum. Put it down, please.

A. This has no reference to that.

I could not give you the exact amount.

Q. Could you approximate it?

A. I should think approximately $50,000.

Q. What proportion of that was fabricated and what proportion was unfabricated?

A. I could not give the proportion.

Q. How many different purchases were there of structural?

A. I should say approximately three or four.

Q. Do you know from whom you bought your fabricated?

A. No, I do not.

Q. Do you know from whom you bought your unfabricated structural steel that year?

A. I cannot give you that.

Q. Can you state who bid on the fabricated structural that year?

A. Not definitely; no, sir.

Q. Can you state who bid on both fabricated and unfabricated, making the bids cover both?

A. No; I could not give you that.

Q. Can you state the prices at which your contracts were made on either?

A. No.

Q. Take plates, nails and bars: Would your answers to the same questions, leaving out the difference between fabri-

cated and unfabricated structural, be the same, or would they be different? And if different, you can make it as comprehensive as you wish.

A. I cannot definitely make a statement as to whom we purchased from or what price we paid.

Q. Or who bid on any of them?

A. No, sir; I could not.

Q. Or what the tonnage was or how many contracts there were?

A. The tonnage in 1909, you are asking about?

Q. 1908.

A. I should think the tonnage for 1908 was approximately the same as 1907.

Q. In 1907 and 1908 did you have a purchasing agent?

A. Yes, sir.

Q. Who was he?

A. Mr. Collins.

Q. Is he with you now?

A. Yes; in a different capacity.

Q. What had he to do, in 1907 and 1908, with making the various purchases and getting quotations?

A. When the requisitions came in for material, he sent out the requisitions asking for quotations.

Q. Is that all he had to do with it?

A. When the quotations came in they were tabulated and turned over to me.

Q. Did you see the original quotations, or just his tabulation?

A. The original quotations were attached with all correspondence to the tabulations.

Q. Did you have confidence in him?

A. Yes.

Q. Well, did you accept his tabulations?

A. The original quotations were attached to the tabulations with the confirmations.

Q. I understand, but what I want to get at is whether, when this gentleman presented you the tabulations with the papers attached, you accepted his tabulations, or whether

you did not accept them and went over the originals to verify them.

MR. LINDABURY: In every case, you mean?

MR. DICKINSON: In any case, or in every case, either. Just let him answer.

MR. LINDABURY: Let me know which. It is one thing if you mean to ask whether he did it every time, and it is another thing if you ask whether he ever did it.

By MR. DICKINSON:

Q. Did you do it at any time?

A. Very frequently I examined the original quotations; not for the purpose of checking the tabulations.

Q. But you frequently did it? Do you know with what frequency you did that?

A. No, I couldn't say that.

Q. What occasion, if you had confidence in his tabulations, would you have for looking back at the original tabulations?

A. When I was attracted to any particular bid on the tabulation, I would look up the original quotation.

Q. That was only, then, when there was something to attract your attention to any particular bid?

A. Yes.

Q. Then you would look at that particular one?

A. Yes.

Q. Did you at any time take his tabulations and go over all of the quotations and verify his figures?

A. I do not think I ever did.

Q. Generally you accepted his tabulations as correct?

A. Yes.

Q. Without examining the original quotations?

A. I examined the original quotations only when I was attracted to something.

Q. And you do not know how often that may have been?

A. No.

Q. And those were special instances?

A. They were special cases, yes.

Q. Now, has that been so for all of the years 1907, 1908, 1909, 1910, 1911 and 1912?

A. Yes.

Q. Has that been so with respect to all three of these companies?

A. Yes.

Q. And the purchases by them?

A. Yes.

Q. Can you state for any one of those years, or any purchase for any one of those years, which of the bidders quoted both on fabricated and unfabricated structural?

A. Are you referring to the New York Dock Company's purchases, now?

Q. I was referring to that, because that is the one I asked you most of the questions about.

A. My recollection is that the Pennsylvania Steel Company has bid on both fabricated and unfabricated.

Q. Now, in which year?

A. I should say for the past three years.

Q. Back of that can you name anyone that bid on both?

A. I cannot recall back of that time.

Q. Now, referring to the Consolidation Company, what class of products have been bought for that company?

A. Structural steel, plates, light rail, pipe, nails and tubes.

Q. Now, what was the first year that you began to do the purchasing for that company?

A. Three years ago.

Q. Do you count this year?

A. Well, it is just about three years ago this month.

Q. Then that would be 1911, 1912 and 1913?

A. Yes.

Q. What part of 1911 did you begin purchasing for that company?

MR. LINDABURY: He said 1910; three years ago this month would be 1910.

THE WITNESS: I began practically the first of the calendar year of 1911.

By Mr. Dickinson:

Q. Not 1910?

A. I went as executive officer in December, 1910.

Q. And the first purchases, then, were for 1911?

A. Yes.

Q. And not for 1910, by you?

A. No.

Q. Now, in regard to this variety of steel products bought for the Consolidation Company for this year; take 1913: what of those were purchased under contract?

A. Light rails, spikes and nails.

Q. How many contracts were those purchases covered by in this year?

A. Three contracts.

Q. Did those contracts embrace these commodities, all of them, or were they separate contracts?

A. Separate contracts.

Q. That is to say, the contract for light rails, spikes and nails was separate from the others?

A. Yes.

Q. Do you mean to say that you had three contracts for rails?

A. No; one contract.

Q. You mean the three contracts covered these three different commodities?

A. Yes; a contract made for each article.

Q. When was the contract for light rails made, and what was the tonnage?

A. The contract for light rails was made either in January or February.

Q. Of this year?

A. Yes.

Q. Did that have a maximum and a minimum quantity?

A. Yes.

Q. With whom did you make that contract?

A. The Carnegie Steel Company.

Q. Now, your contract for spikes: when was that made?

A. That was made about the same time.

Q. Did that have a maximum and a minimum?

A. Yes.

Q. With whom did you make that?

A. Dilworth, Porter & Company.

Q. What was the tonnage?

A. I don't recollect exactly; it ran about five or six carloads.

Q. What was the tonnage in light rails?

A. About 10,000 tons.

Q. In nails, with whom did you make the contract?

A. The contract was made with a concern in Ashland, Kentucky. I do not recall the name.

Q. Was it carloads or kegs?

A. Specifications were made up for so many kegs of varying sizes of nails, shipped as we ordered.

Q. What was the amount covered by that contract?

A. I should say about ten carloads.

Q. And about what tonnage?

A. That would be about 200 tons, I should think.

Q. On those light rails just state who the bidders were and what they bid?

A. The bids were on varying sizes of light rail.

Q. Did all of them bid on the same sizes?

A. All on the same sizes.

Q. Who bid?

A. Jones & Laughlin, Carnegie Steel Company, Lackawanna Steel Company, Republic Iron & Steel Company, and the Cambria.

Q. When did you say that contract was made, Mr. Landstreet?

A. Either the latter part of January or the first of February.

Q. Now, did you close that contract on any of the first bids quoted to you?

A. No, sir.

Q. When in respect to the time of closing that contract did Jones & Laughlin make their bid and how many bids did they make, if more than one?

A. Their bid was all made at the same time.

Q. They only made one bid?

A. Yes, sir.

Q. In reference to the time of closing that contract when was that bid made?

A. I could not give you the date.

Q. Could you approximate it?

A. The whole transaction occurred within two to three weeks from the time of asking the bids and the closing of the contract.

Q. You do not know how long before the closing of the contract, within two or three weeks, Jones & Laughlin's bid was?

A. No.

Q. Did the Carnegie make more than one bid?

A. They made one bid and modified it afterwards.

Q. Did the Lackawanna make more than one?

A. No.

Q. Did the Republic make more than one?

A. Yes; they made two.

Q. Now, in respect to that contract in point of time when were the bids of the Republic made in respect to the time the contract was made?

A. I could not give you the order in which they came into the office. The modified bids of the companies were made within two or three days prior to the closing of the contract.

Q. How many bids did the Cambria make?

A. I do not recall the Cambria.

Q. You say there were some modified bids; did you communicate to each of these companies after the first quotation was put in what the others had bid?

A. No.

Q. Did they know what the others had bid?

A. No, I do not think they did.

Q. Do you know what the bid of Jones & Laughlin was?

A. There were five or six different sizes of rails asked for in the contract.

Q. Do you know what the bid of Jones & Laughlin was, their original bid as compared to the Carnegie's original bid?

A. Their figures were above the Carnegie's figures. As to the amount, I don't know.

Q. Do you know what Jones & Laughlin's first bid was as compared with the Lackawanna?

A. My recollection is the Lackawanna was the lowest of all of the first bidders.

Q. Do you know what Jones & Laughlin's bid was as compared with the Republic on the first quotation?

A. They were above the Republic.

Q. Jones & Laughlin were?

A. Yes.

Q. And how in respect to the Cambria?

A. I do not recall that.

Q. Can you give any of these bids on any of those sizes?

A. No.

Q. Can you tell what price you paid on any of them?

A. No, sir.

Q. Now, take spikes: When was the contract for spikes made?

A. Practically at the same time the contract was made for rails?

Q. Who bid on spikes, except Dilworth, Porter & Company?

A. Jones & Laughlin and the Steel Company.

Q. What do you mean by "the Steel Company"?

A. The Carnegie Steel Company.

Q. Who else?

A. That is all I recall now.

Q. Do you know what their bids were; can you state what they were?

A. No, I could not state what the price was.

Q. Do you know that you saw those original bids yourself or just took a tabulation?

A. The original bids were attached to the tabulations; whether I looked at them or not I do not recall.

Q. On the bids on rails, do you know whether you looked at them or not?

A. No, I could not say whether I did or not.

Q. Of all your purchases in steel products for 1913, what percentage have you bought from subsidiaries of the United States Steel Corporation?

A. I should say, roughly, 65 per cent.

Q. In 1912 what percentage?

A. Probably a less per cent.

Q. How much less?

A. Oh, I don't know.

Q. Did you buy as much as 60 per cent.?

A. I couldn't tell you.

Q. For 1910 can you give it?

A. I could not give you that. I know our purchases have been increasing from the subsidiary companies.

Q. Right along?

A. Yes.

MR. DICKINSON: That is all.

MR. LINDABURY: That is all.

FREDERICK K. RANDALL

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Randall?

A. Brooklyn, New York.

Q. What is your occupation?

A. General manager of the Brooklyn Metal Ceiling Company.

Q. That is a co-partnership, is it?

A. Yes.

Q. Are you one of the members of the firm?

A. Yes.

Q. How long have you been in that firm?

A. Twelve years.

Q. Are you familiar with the purchases of steel that that company makes?

A. Yes.

Q. How long have you been familiar with the purchasing?

A. About ten years.

Q. Do you have charge of the purchasing?

A. Yes.

Q. How long have you had?

A. Ten years.

Q. What kind of steel does that co-partnership buy?

A. It is cold rolled Bessemer steel sheets.

Q. In the form of sheets?

A. Yes.

Q. About what quantity do you buy annually?

A. About 1,400 tons.

Q. Do you buy on annual contracts, or do you buy in lots as you need the material?

A. We buy quarterly on contracts?

Q. You make contracts for your requirements for a period of three months?

A. Yes.

Q. How long has that been your custom?

A. About ten years.

Q. Before you make contracts of that kind do you ask quotations from different manufacturers of sheets?

A. Yes, sir.

Q. Will you give us the names of those whom you ordinarily ask to quote?

A. The Zug Iron & Steel Company, the Parkersburg Iron & Steel Company, the Youngstown Iron & Steel Roofing Company, the Seneca Iron & Steel Company, the Standard Tin Plate Company, the Carnahan Iron & Steel Company.

Q. Do you ask the American Sheet & Tin Plate Company?

A. I never did ask them; no, sir.

Q. Do they bid?

A. Recently, yes.

Q. When did they start to submit bids to you?

A. Two years ago.

Q. Was that on your request or on theirs?

A. They came in to see me personally.

Q. And asked to submit bids?

A. Yes.

Q. Have any other companies asked to participate in this bidding that you have not invited?

A. Yes, sir.

Q. In other words, have any other companies tried to get into the business?

A. Yes, sir.

Q. What companies?

A. The De Forest Sheet & Tin Plate Company, and the West Penn Steel Company.

Q. And have you received quotations from them?

A. No, sir.

Q. You did not send them your specifications?

A. No, sir.

Q. Has the Youngstown Sheet & Tube Company tried to get in too?

A. No, sir.

Q. Have they asked you to give specifications to them?

A. No, sir.

Q. Starting with ten years ago, say in the year 1904, what percentage of your sheets did you buy from the American Sheet & Tin Plate Company?

A. None whatever.

Q. Where were you getting your sheets then?

A. From the Youngstown Iron & Steel and the Zug Iron & Steel.

Q. How long did you continue to buy principally from those companies?

A. About two to three years.

Q. Then what change took place?

A. We split it up amongst five or six companies.

Q. Who were they?

A. The Parkersburg, Zug, Youngstown, Seneca, Standard and Carnahan.

Q. And how long did you follow that custom?

A. Until two years ago.

Q. Then what happened?

A. The representative of the American Sheet & Tin Plate Company called on me and wanted to submit prices, and I gave him specifications, and he quoted; the bid was satisfactory and I placed the business with him.

Q. That was for the year 1912, was it?

A. Well, this was in the latter part of 1911, for delivery in 1912.

Q. What part of your purchases for 1912, then, were made from the American Sheet & Tin Plate Company?

A. All of them, with the exception of one lot, amounting to 100 tons, which I purchased from Parkersburg.

Q. So that you bought over 90 per cent. from the American Sheet & Tin Plate Company that year?

A. Yes.

Q. What did you buy in 1913?

A. All, with the exception of 50 tons.

Q. You bought even a higher percentage from the Sheet & Tin Plate Company this year?

A. Yes.

Q. With the quotations that came in to you during ten years did you find the prices varying or were they alike?

A. They varied.

Q. How long has that been so, during the whole of the ten years?

A. Yes.

Q. About what range of variation would you get, Mr. Randall?

A. Why, in some instances from one dollar to six dollars a ton.

Q. Would the same company always be lower, or would they vary in that way, too?

A. They would vary in that way also.

Q. For what reason have you given the business to the Sheet & Tin Plate Company in the last two years? Is it because of their bid?

A. No, not altogether; they had a sheet that was a little

better. In fact, I think it was a superior sheet to what the other mills were making.

Q. It suited your purposes better?

A. Yes; and their deliveries were better.

Q. Do you remember any occasion during those ten years when all the bids that you got were the same?

A. No, sir.

Q. I am asking you right up to the present time; do you remember any case even this year?

A. No, sir.

Q. When did you get your last lot of quotations?

A. Last November; last month.

Q. How did they range?

A. Three bids were alike and one was a dollar a ton under.

Q. Did you ever, at any time in ten years, have as large a proportion of them alike as in this last year?

A. No, sir.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. What is the sulphur and carbon requirement, if any, that you specify in your sheets?

A. We do not specify.

Q. For what purpose do you use the sheets?

A. Stamped metal ceilings.

Q. You do not buy any common black sheets?

A. They are all black sheets.

Q. Common black sheets?

A. The specifications read "suitable for ceiling stock."

Q. You do not know whether they are common black sheets or not?

A. I have an idea they are.

Q. What did you pay the American Sheet & Tin Plate Company, base price?

A. When?

Q. This last year.

A. What period in the year?

Q. Well, on the contract for 1913 what was the base price on that?

MR. REED: He said he made four contracts.

THE WITNESS: We made four contracts.

By MR. COLTON:

Q. Well, on the first contract?

A. $2.41.

Q. What is that on, 100 pounds?

A. $2.41; 100 pounds.

Q. What time did you place that contract?

A. The middle of last December; December, 1912.

Q. From what different companies did you solicit quotations or get quotations from with respect to the particular tonnage that you gave to the American Sheet & Tin Plate Company?

A. The representative of the Youngstown Iron & Steel Company, and the Parkersburg Iron & Steel.

Q. Any others?

A. Those are all I solicited.

Q. Are there any others that you got quotations from in respect to that particular tonnage?

A. Yes.

Q. What others?

A. Mr. MacVey, of the Seneca Iron & Steel Company.

Q. Do you recollect the exact quotations of those different companies?

A. The Youngstown was $2.51, less a two-cent freight which they have to pay extra, which they equalize with Pittsburgh. They have an 18-cent rate from Youngstown to equal it with Pittsburgh, which has a 16-cent rate.

MR. REED: That made $2.49 net?

THE WITNESS: $2.49 net, but they bill it at $2.51 and allow the two cents on the bill as the freight.

By MR. COLTON:

Q. Now, on the next contract what different companies did you get bids from; the second one you placed with the American Sheet & Tin Plate Company?

A. It was in the middle of March of this year.

Q. Can you give the companies?

A. I solicited only from the American Sheet & Tin Plate Company, for previously Mr. Guyflus, of the Parkersburg, was in to see me and had quoted verbally.

Q. How long before?

A. About a week.

Q. At what did you let that contract to the American Sheet & Tin Plate Company?

A. $2.36.

Q. And the company you have just named is the only other company from which you got any quotation?

A. Yes.

Q. And the third contract?

MR. REED: You did not ask him the quotation. Was that intentional or inadvertent? With respect to the second quarter's contract you did not ask the quotation.

MR. COLTON: No, I did not ask the quotation.

MR. REED: I call your attention to it; I do not know whether you did it intentionally or not.

THE WITNESS: That was the middle of June.

By MR. COLTON:

Q. The middle of June this year?

A. Yes.

Q. From what companies did you get quotations?

A. The Parkersburg, Seneca, Youngstown, and the American Sheet & Tin Plate Company.

Q. Did you solicit quotations from all of the others?

A. All but Seneca.

Q. What did you pay the American Sheet & Tin Plate Company on that?

A. $2.50.

Q. Now, is the fourth contract the last contract you made with the American Sheet & Tin Plate Company?

A. No, sir.

Q. What did you pay them on that fourth contract?

A. We made a contract in November.

Q. What did you pay them?

A. $2.15.

Q. How many did you get quotations from then?

A. Three.

Q. Including the American Sheet & Tin Plate Company?

A. Three altogether.

Q. And what was the last contract you made?

A. November.

Q. That is the last contract you made?

A. Yes.

Q. Who were the other bidders on that contract?

A. The Parkersburg, Youngstown, Seneca, and American Sheet & Tin Plate Company.

Q. What were the bids of each?

A. $2.15, Youngstown, Seneca and the American.

Q. And the other one was what?

A. $2.11.

Q. "American" means the American Sheet & Tin Plate Company?

A. Yes.

MR. REED: You mean the word "American" means American Sheet & Tin Plate Company?

THE WITNESS: Yes.

By MR. COLTON:

Q. And you placed that contract with the American Sheet & Tin Plate Company?

A. Yes.

Q. Is not that a very much higher price than was paid for black sheets at that time? Don't you know that the ruling price for black sheets at that time was nearer $1.80 than $2.15?

A. I didn't know it. If you are talking base price—I am talking about what I pay on my contracts. You want to take a differential off there, two gauges.

Q. Is this delivered?

A. $2.15 is f. o. b. Wallabout, Brooklyn; freight allowed.

Q. Each of the companies paying the freight?

A. Yes.

Q. Take the first year that you split that tonnage among five different companies, what year was that?

A. About 1905.

Q. Do you recall the number of bids that you received on each of your different purchases?

A. I received two written bids and the rest were verbal, each of the other three.

Q. That is, on each of the different purchases.

A. Yes, sir.

Q. Did you receive about the same number of bids in 1905 that you have on the different contracts that you have spoken of for 1913, I believe it was—about the same number; I mean would it run about the same, about the same variation, about the same number bidding at different times?

A. In 1913, no; there were five or six in 1905 and four in 1913.

Q. That is, four was the maximum number bidding on any one contract in 1913?

A. Yes, sir.

Q. And what was the maximum number in 1905?

A. Six, if I remember correctly.

Q. And on some occasions you have less than six?

A. Yes, sir.

Q. What tonnage did you buy in 1905?

A. About 900.

Q. Give it each year from 1905 down?

A. 1905 down?

Q. Yes, to the present time.

A. That ran 900 until about 1911.

Q. And then what was it?

A. I got about 1,100.

Q. And 1912?

A. 1,400.

Q. 1913?

A. Our contracts ran about 1,600

Q. And have you made any purchase for 1914 yet?

A. My November purchase was for 1914 delivery.

Q. That was the contract that was placed with the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. For what tonnage was that?

A. 300 tons.

Q. For the last two years, that is, for the years 1912 and 1913, have you bought over 95 per cent. of your purchases from the American Sheet & Tin Plate Company of your tonnage?

A. Not over 95 per cent.; no, sir.

Q. About 95 per cent.?

A. I think the two years would run about 95 per cent.; yes, sir.

Q. The average of the two years would be about 95 per cent.?

A. Yes, sir.

MR. REED: He gave you the exact figures, Mr. Colton.

MR. COLTON: I don't think he has.

MR. REED: 100 last year outside, and 50 tons this year outside.

MR. COLTON: If he has given the exact tonnage we can figure it.

By MR. COLTON:

Q. When you speak of prices varying, you do not mean to say that there were not times when there were two or more bids which you received alike, did you?

A. I never had two bids alike.

Q. Do you mean to say positively that you never did receive two bids alike on any of your different purchases?

A. Not outside of last November, no, sir, last month.

Q. That was the first time you ever got two alike?

A. Yes, sir; got three alike then.

Q. Yours were for delivered?

A. Yes, sir.

Q. Your purchases are for material delivered?

A. Yes, sir.

Q. And have the manufacturers always paid the freight?

A. Yes, sir.

By Mr. Reed:

Q. Mr. Randall, take this $2.15 a hundred pounds that you say was quoted to you last month f. o. b. Brooklyn for your kind of sheets: Are you able to reduce that to Pittsburgh base price for us?

A. Yes, sir.

Q. What is the equivalent in the base price at Pittsburgh?

A. $1.85.

Q. 16 cents of the 30 cents difference is freight, is it?

A. It is 31 cents; it is $2.16 last month.

Q. You mean to correct your answer from $2.15 to $2.16?

A. Yes. I said $2.11; a dollar a ton difference on the other quotation from Parkersburg; there is a differential of 15 cents on the two gauge, and 16 cents freight is $1.85 base.

By Mr. Colton:

Q. Do you receive quotations at other times than when you are taking up your particular tonnages with these different parties?

A. I do not; no, sir.

By Mr. Reed:

Q. Do different salesmen come to your office asking leave to submit quotations?

A. Yes, sir.

Q. At irregular intervals?

A. Yes, sir.

Q. You do not want quotations except quarterly? Is that what you mean?

A. No; I do not want quotations from a man when I have got contracts signed and goods enough on hand, because they do not interest me.

Q. So you do not let them bid?

A. No, sir.

ROBERT M. REPP

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Pittsburgh.

Q. What is your occupation?

A. Manager of the Logan-Gregg Hardware Company.

Q. How long have you been manager of that company?

A. Nineteen years.

Q. In what business is it engaged?

A. Jobbing hardware, general line.

Q. Is it a large business, Mr. Repp?

A. It is the largest of its kind in Pittsburgh.

Q. Do you deal in any of the products of the Steel Corporation?

A. We do.

Q. In what products?

A. Wire, nails, staples, poultry netting.

Q. What kind of wire?

A. Barbed wire and plain annealed wire and plain galvanized wire.

Q. You are speaking now of steel wire, of course?

A. Steel wire.

Q. And about how many tons of steel wire do you buy annually?

A. Of barbed wire and plain wire about 200 to 250 tons.

Q. You say you buy some nails. Can you give us an estimate of the number of kegs that you buy annually?

A. About twenty to twenty-five thousand kegs.

Q. And of your poultry netting about what quantity do you buy annually?

A. About twelve to fifteen thousand bales.

Q. Take up nails first. Do you buy nails on annual contract or do you buy in lots from time to time?

A. Sometimes on contract and at other times in the open market.

Q. Depending, I suppose, on your views as to the future behavior of the market?

A. Yes, sir.

Q. Before you buy either on contracts or by placing single orders, do you ask quotations from different manufacturers?

A. Yes.

Q. Is there competition for your business?

A. Yes, sir.

Q. What companies do you usually invite to quote to you?

A. At the present time there are three, the American Steel & Wire Company, Pittsburgh Steel Company and Jones & Laughlin.

Q. Those are all companies that have mills in your close vicinity?

A. Yes, sir.

Q. Have there been other companies which have quoted or have asked to quote?

A. Yes; we have had the Youngstown people and also the Cambria.

Q. They are a little bit further from your district, though, are they not?

A. Yes, sir.

Q. Have the quotations that you received on nails varied, or have they come in alike?

A. They have varied at times.

Q. How long has that been so?

A. That has been so as far back as 1903.

Q. When did the Pittsburgh Steel Company get into the business actively?

A. I think about 1903. I am not positive about that.

Q. When did Jones & Laughlin get to making nails?

A. Two or three years ago.

Q. When did the Youngstown Sheet & Tube Company start to bid with you?

A. I think a short time before that.

Q. A short time before Jones & Laughlin?

A. Yes.

Q. And when did the Cambria get into that?

A. Two years ago, I think.

Q. Has the competition for your business in nails been active?

A. It has.

Q. Do you ever read the Iron Age?

A. I very seldom look at it.

Q. You sometimes look at it?

A. Occasionally; yes, sir.

Q. Did you ever notice its prices on nails?

A. Yes, I have.

Q. As a general thing can you beat those prices in your purchases?

A. I usually can, yes.

Q. Do you ever have to pay more than the Iron Age prices in periods of prosperity?

A. I cannot say that I have.

Q. You usually get about the bottom of the market, I suppose?

A. Yes. When I get the bottom I usually contract.

Q. Coming to your plain and barbed wire: Is there any difference in the situation as to that?

A. Not a particle.

Q. Competition is active there too, is it?

A. Contracts are usually made at the same time.

Q. Do the quotations vary in plain and barbed wire as they do in nails?

A. Yes, sir.

Q. How about poultry netting? You seem to buy very large quantities of that, Mr. Repp. Will you tell us, first, what companies have bid for your business?

A. There have been the Gilbert & Bennett Manufacturing Company, of Georgetown, Connecticut. the Wright Wire Company, the New Jersey Wire Cloth Company——

Q. That is Roebling's concern?

A. Yes; that is Roebling's concern; the Clinton Wire Cloth Company and Wickwire.

Q. Has the American Steel & Wire Company been bidding on that too?

A. Yes, sir.

Q. Have the prices that have been quoted to you by these different makers varied on poultry netting?

A. They have.

Q. For how long, Mr. Repp?

A. The custom was to send out prices at the opening of the season. Those were usually the same. Any concessions that were made were below those prices, of course.

Q. Was it customary for them, in making quotations for particular business, to quote discounts from those price lists?

A. Yes, sir.

Q. And did those discounts vary; that is, did one concern offer a larger discount than another, a bigger cut than another?

A. Not on the open quotations.

Q. I did not ask about the open quotations, but the quotations they make to you, when you come down to making contracts?

A. Yes; I received concessions.

Q. Where have you bought the bulk of your poultry netting?

A. From Gilbert & Bennett.

Q. And for what reason?

A. I have been able to do better with them than anybody else.

Q. That is, you make better prices with them?

A. I make better prices with them, yes.

Q. Have you followed the Iron Age prices on poultry netting?

A. No, sir; I have not.

Q. You don't know how the prices you have been paying have contrasted, then, with the prices that the Iron Age was quoting?

A. No.

CROSS EXAMINATION

By Mr. Dickinson:

Q. I understand you to say that on poultry netting the manufacturers would send out quotations, and they would be the same?

MR. REED: That is not what he said. He said they sent out a price list at the beginning of the season.

THE WITNESS: Yes; a price list.

By MR. DICKINSON:

Q. But the prices shown on the price lists sent out by the various manufacturers would be the same?

A. Usually the same. Sometimes there were slight variations in some of the things.

Q And the discount on them, the open discount, would be the same?

A. Yes.

Q. And this has been so ever since you have been buying poultry netting?

A. No, sir; I cannot say that it has. I do not remember how far back.

Q. As far back as you remember particularly about poultry netting that is so, is it not?

A. Yes; during the past three or four years I remember getting quotations of that kind.

Q. Do you remember how it was back of four years ago?

A. That has not always been the case.

Q. That is what I understand. You are a large purchaser, I believe you said?

A. We buy a great deal of it.

Q. And you have a large business?

A. Yes, sir.

Q. And when you come to deal and barter with them, you get some concessions before you purchase?

A. Sometimes I do and sometimes I don't.

Q. Sometimes you do not? Sometimes you cannot get anything below that general quotation that is sent out first? Is that so?

A. Yes; that happens some times.

Q. You don't know how often that has happened, do you?

A. No; I could not say. On poultry netting not very often.

Q. You cannot now state what percentage of your poultry netting purchases have been at prices which were below these circular quotations sent out by all the manufacturers, which you say were the same?

A. I nearly always received a concession beyond those prices.

Q. The fact of your being a large purchaser helped you in that, I suppose?

A. I judge so.

Q. Take your quotations upon plain and barbed wire: the original quotations sent out by the various manufacturers: how has that been as compared with poultry netting?

A. That has not been the case so often.

Q. It has largely been the case, has it?

MR. REED: What has been the case?

By MR. DICKINSON:

Q. Has it been the case that those who have quoted on plain and barbed wire, on their first quotations, have quoted the same price?

A. Not always. I have had variable quotations.

Q. Well, it has frequently been the case throughout this period that you have been purchasing?

A. It has frequently been the case.

Q. And you have been able sometimes by bargaining to get below the first quotations quoted you in this way by manufacturers?

A. I have.

Q. And that is on account, largely, is it, of the extent of your purchases?

A. I think so.

Q. How long have you been purchasing nails?

A. We have been purchasing 19 years.

Q. Well, now, take since 1901, say; how have your quotations been on nails, your first quotations from the manufacturers whom you have solicited and who have solicited your trade?

A. I cannot recall as far back as 1901.

Q. How far back can you recall?

A. I can recall as far back as when the Pittsburgh Steel Company started in business.

Q. When was that?

A. I think that was 1903.

Q. Well, in 1903 what was the course, in your business, of the first quotations of manufacturers on nails? That is to say, how were they in respect to each other?

A. I cannot recall now. I know I got some concessions from that time on.

Q. That is, by trading you got concessions from the first quotations?

A. Yes.

Q. But you do not know how those quotations were with reference to each other in 1903?

A. I do not.

Q. Well, in 1904?

A. All I can say is that there has been scarcely a year since the Pittsburgh Steel Company has been in business that I have not been able to get concessions from one or the other.

Q. Before that, how was it?

A. I don't remember.

Q. Say from 1901 up to the time the Pittsburgh started in, were you able to get concessions from the quoted prices?

A. I don't remember that.

Q. What percentage in 1913 of all your requirements in wire, nails, staples and netting, did you get from the subsidiaries of the United States Steel Corporation?

A. Including the poultry netting, you mean?

Q. Including all of your purchases of steel products?

A. I should judge about half.

Q. Excluding poultry netting, what percentage?

A. They get about 70 per cent.

Q. Take the year 1912; give me those respective percentages. First, the percentage of all, and then the percentage excluding poultry netting.

A. Well, I think it would run year after year 20 to 30 per cent., and the American Steel & Wire Company got anywhere from 70 to 80 per cent. on the wire and nails.

Q. And what percentage on the poultry netting?

A. I have never bought a dollar's worth from them.

Q. You have never bought a dollar's worth?

A. No, sir.

Q. Did that percentage include staples?

A. Oh, that is a small item; it don't amount to much.

Q. Too small to figure?

A. Yes, although I have frequently bought those elsewhere.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Repp, have the Youngstown and the Cambria companies in their quotations got as low as the companies that have mills right in Pittsburgh close to you?

A. I have bought several lots from the Youngstown people, by receiving a concession.

Q. Generally speaking, do they get as low?

A. I have not had any quotations from them in a long while.

Q. How far is Youngstown from Pittsburgh?

A. I believe it is 40 miles.

Q. It is less than 100, anyway?

A. Oh, yes.

Q. And Johnstown, where the Cambria's work are, is less than 100 miles, too, is it not?

A. Just about 100.

CHARLES T. MARSH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Pittsburgh, Pennsylvania.

Q. What is your occupation?

A. General purchasing agent for the Gulf Refining Company and the Gulf Pipe Line Company.

Q. And their constituent companies, I suppose?

A. And their several constituent companies; about a dozen of them.

Q. How long have you been general purchasing agent of those companies?

A. Since October 1, 1907.

Q. Where are the principal operations of this group of companies carried on?

A. In Texas, Louisiana and Oklahoma.

Q. Where are the general offices of the company?

A. At Pittsburgh.

Q. And your office is at Pittsburgh, is it?

A. Yes.

Q. Do you buy at Pittsburgh for the works of your companies in Texas, Oklahoma and Louisiana?

A. Very nearly all of it.

Q. How about the steel materials that you use; do you buy them?

A. The greater part, yes.

Q. Your company is one of the large oil refining companies of this country, is it not?

A. Oil producing, transporting and refining.

Q. You do all parts of the business?

A. Yes.

Q. Is it any connection of the Standard Oil Company, or is it a competitor?

A. Not that I know of.

Q. So far as you know it is an active competitor of the Standard, is it not?

A. Oh, yes, indeed.

Q. Do you buy pipe?

A. Yes.

Q. In large quantities?

A. Yes.

Q. About how many tons of pipe do you buy in the course of a year?

A. I would average it at between 12,000 and 15,000 tons per year.

Q. Do you ever buy more than that?

A. That is the average; some years we will buy more.

Q. What is the biggest tonnage you have bought in any year since you became purchasing agent?

A. The largest single order that we handled was for 135 miles of six-inch line pipe running, I believe, into about 7,200 tons.

Q. What other kind of steel materials do you buy; do you buy any wire products?

A. Yes, sir.

Q. In what form?

A. In the form of oil country goods, tubing lines, drilling cables, bull ropes; these lines range in length from 250 feet to 3,600 feet.

Q. Mr. Marsh, about how many feet of wire rope do you buy annually?

A. About 600,000 feet.

Q. Going back, now, to your pipe purchases since you became general purchasing agent in October, 1907, I wish you would tell us what companies you have received quotations from on pipes?

MR. DICKINSON: Do you mean by years, or for the whole period?

MR. REED: For the whole period.

THE WITNESS: I would say that we buy pipe from all of them. I will enumerate them if you wish.

By MR. REED:

Q. I wish you would.

A. The Republic Iron & Steel Company, the Youngstown Sheet & Tube Company, the National Tube Company, Spang, Chalfant & Company, the Wheeling Steel & Iron Company, Reading Iron Company, South Chester Tube Company.

Q. Do you get any from the Mark Manufacturing Company?

A. Yes, sir.

Q. Do you get any from the La Belle Iron Works?

A. Yes, sir.

Q. Are these companies that you have named companies that have not only quoted, but also sold to you?

A. Oh, yes; sold us in large quantities.

Q. And from how many of them ordinarily do you ask quotations on each purchase of pipe in any quantity?

A. Well, on a specification of substantial size we do not always send inquiries to the smaller mills. We select the Republic, Youngstown and National; sometimes Spang and La Belle.

Q. A mill of the size of the South Chester is hardly able to fill a big order like that one you mentioned?

A. Not in steel; they make no steel whatever; they make all iron, the South Chester.

Q. You did not mention the Byers Company; do you ask quotations of them?

A. No, sir; not often.

Q. Sometimes you do?

A. Yes, sir; on iron only.

Q. Now, as to the quotations that you receive from these different pipe manufacturers, Mr. Marsh, in answer to any particular inquiry, do they vary or are they alike?

A. They always vary.

Q. And is there active competition among these companies for your business?

A. There is.

Q. Do their salesmen call and see you?

A. Daily.

Q. With persistence?

A. Oh, yes, daily.

Q. How long has that competition continued?

A. That has been going on almost since I took over the purchasing for the companies.

Q. About wire rope; did you know of the existence of the wire rope pool run by Mr. Jackson of New York?

A. I do not know of any such pool in existence now.

Q. No, I know, but did you know of it when it was in existence?

A. I heard of it; yes, sir.

Q. It was pretty well known among the purchasing agents, wasn't it?

A. Yes, sir.

Q. Since 1909, Mr. Marsh, have you had competition for your purchases in wire rope?

A. Yes, sir.

Q. Prior to 1909, what was the condition; did the pools affect the quotations much as far as you could see?

A. Well, they tried to maintain, I believe, some notion of prices, but I do not remember distinctly how it affected our contract for 1909.

Q. During the pool days did any of the members of the pool ever make concessions to you below the pool price?

A. Why, yes.

MR. DICKINSON: I did not hear your answer.

THE WITNESS: Yes, sir.

By MR. REED:

Q. How is the competition in wire rope now; is it active and keen, or otherwise?

A. I consider it very active.

Q. Do you buy much wire rope from the American Steel & Wire Company?

A. No, sir.

Q. Why not?

A. They have not been able to figure the correct price to get our contract.

Q. Their bid is never as low as the lowest you get?

A. Except for one year, they had the contract.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS

CHARLES T. MARSH,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION

By MR. COLTON:

Q. What percentage of your steel products do you buy from the United States Steel Corporation?

A. About 50 per cent.

Q. A majority of your steel purchases are pipes, are they not?

A. Pipe and wire and wire rope.

Q. What sort of wire do you buy?

A. We buy a little galvanized wire, but the greater part of our purchases in that line is rope.

Q. You are not very familiar with the galvanized wire purchases; they do not amount to very much, anyway, do they?

A. No, sir; less than a carload a year, I think.

Q. You do not know whether the wire rope manufacturers always quoted you above the minimum price that they had in their pool or not?

A. I don't know.

Q. And you would not care to testify definitely as to just when the wire rope pool broke up, would you?

A. Well, my recollection of it is that the pool terminated in 1909; probably the early part of 1909.

Q. What information have you on the subject of when that pool broke up, of your own knowledge?

A. Only recollection of it.

Q. What do you base that on?

A. I cannot answer that.

Q. You mean you have no information on which you base that?

A. No, sir; I just recall that. It happened within a year or two after I began buying for the companies.

Q. What difference did you notice with regard to the purchase of wire rope that led you to suppose that the pool had been broken up?

A. Probably it was the variation in prices that were offered to us at that time.

Q. As contrasted with the lack of variation that had preceded that time?

A. Yes.

Q. What year did you begin the purchase of pipe?

A. October 1, 1907.

Q. And on the whole your purchases of pipe have averaged about 50 per cent. from the National Tube Company?

A. I believe that is a pretty close average.

MR. COLTON: That is all.

REDIRECT EXAMINATION.

By Mr. Reed:

Q. Mr. Marsh, you spoke about one big order—I think the biggest you ever gave—for 135 miles of six inch line, was it?

A. Yes.

Q. Who got that contract?

A. The National Tube Company.

Q. Did they get all of it?

A. Yes, sir.

Q. Did you let any other large contract about the same time?

A. We let an order about the same time for 50 miles, I think, of the same material.

Q. Who got that?

A. The Youngstown Sheet & Tube Company.

Q. Was there considerable bidding on both those orders?

A. Oh, yes; yes, sir.

Q. What range of prices do you generally get on pipe; that is, how wide are the variations?

A. From three to ten per cent. at times.

Q. I suppose you don't always accept these bids as final, either, do you?

A. No.

Q. Have you had any success in beating them down, playing one against the other?

A. Always, we do that, considering their facilities, and the promptness with which they seem to be able to take care of us.

JOHN M. OLMSTED

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live?

A. Buffalo, New York.

Q. What is your business?

A. Vice-President of the Buffalo-Pitts Company, manufacturers of agricultural machinery; specifically, threshing machinery, steam and gasoline traction engines, road engines, and road freight cars and stone spreading cars for the construction of roads.

Q. How long has that company been engaged in business?

A. Since 1836.

Q. I presume you were not with it at the beginning?

A. In embryo, possibly.

Q. When did you become vice-president?

A. I became vice-president in 1909, I think.

Q. Were you connected with that company before that time?

A. I became purchasing agent in 1905, and previously I had been connected with the concern directly from 1901.

Q. Have you had any other business?

A. I have not.

Q. I think you told me you went there immediately after your graduation from college?

A. Yes; I have worked in the plant of the company since I was 14 years old.

Q. When did you graduate from college?

A. Ex-1902.

Q. What do you mean by "ex-1902"?

A. I mean that I left college in 1900, and should have graduated in the class of 1902.

Q. Have you had to do with the purchases for your concern?

A. I was purchasing agent from 1905 until 1907, if I recall correctly.

Q. Was it 1907 you became vice-president?

A. I became secretary at that time.

Q. How long were you secretary?

A. About two years.

Q. Have you had to do with the purchases since you became secretary?

A. I have; I supervise the purchases.

Q. In what way and to what extent?

A. I have made most of the large contracts.

Q. And have you knowledge—personal knowledge, I mean—from contact with the large contracts or only with some of them?

A. All of them.

Q. You use, of course, some steel in your business?

A. We do.

Q. What tonnage?

A. Approximately 5,000 tons a year, average.

Q. Consisting of what?

A. Bars, shapes, structural, universal mill plate, some small plates, shafting, sheets, wire and springs.

Q. Do you purchase those supplies on competitive bids or not?

A. We do.

Q. Of which of those requirements do you purchase most largely?

A. Steel bars.

Q. Of this 5,000 tons of purchases annually, what percentage, about, consists of steel bars?

A. About three-fifths.

Q. Do you purchase your bars on contracts?

A. We do.

Q. Annually, or at irregular times?

A. Usually annually.

Q. In what part of the year?

A. We follow the practice of most all of the agricultural concerns in our line of business, purchasing at a point close around the first of July.

Q. Are there many other concerns in your line of business?

A. There are about 42.

Q. Is there strong competition in the sale of such products as you manufacture?

A. Very keen.

Q. Do you obtain quotations before making your annual contracts?

A. We do

Q. From what concerns?

A. You are speaking, now, of only contracts for steel?

Q. I am asking entirely about steel purchases.

A. From the Carnegie, Jones & Laughlin, Cambria, Lackawanna Steel Company, Bourne-Fuller Company, and the Republic, through Beals & Company, of Buffalo.

Q. That is a jobbing house, I suppose?

A. It is. That is substantially all of them.

Q. Do you obtain quotations from all of these manufacturers on all of your contracts?

A. Usually all of them.

Q. How long has that been your practice?

A. Ever since I have been connected with the institution; that is to say, it may have been previous to that, but I have no direct knowledge of it.

Q. I only meant to ask of your own knowledge; that goes back, I think you said, to 1905?

A. Yes, sir.

Q. When you began this work?

A. Yes, sir.

MR. DICKINSON: There may be a little misunderstanding there. He said ever since he became connected with the institution; that would be 1900.

THE WITNESS: I should have said with the purchases.

By MR. LINDABURY:

Q. To make that a little clearer then: How long have you had to do in the way you mentioned with purchases?

A. I was purchasing agent since 1905.

Q. Have you made just one contract a year or in your statement about that did you mean to indicate the general practice?

A. The general practice.

Q. Have you sometimes made more than one contract a year?

A. We have.

Q. And do you buy sometimes the necessary immediate needs without an annual contract?

A. We do.

Q. Do you in making your larger purchases for immediate use also get quotations?

A. We do.

Q. Have these quotations that you have received on your annual requirements or on other large requirements for immediate use been the same or different?

A. Different.

Q. Is that true of the whole period since 1905?

A. Substantially so.

Q. And have there been occasions when two or more manufacturers have bid alike?

A. You mean the same figures quoted?

Q. Yes.

A. There have been, yes.

Q. Has that been frequent or infrequent?

A. Out of the total number of bids given at any one time I should say it had been infrequent.

Q. Has there ever been a time, so far as you are able to recall, when a majority bid the same?

A. To the best of my recollection I cannot recall a time when the majority has bid alike.

Q. Has there been a considerable spread between the highest and lowest, ordinarily?

A. Not a very large spread between the highest and the lowest.

Q. I suppose bars are regarded as a standard article in the steel trade, are they not?

A. They are so far as we are concerned.

Q. Has it been your custom to negotiate for better than the quoted price after you have received these bids?

A. Why, there have been occasions when, like most everyone, we do not like to have our eggs all in one basket, and have secured a price from some one concern which has been lower than the others. In that case there has been offered a part of our tonnage to some one of the other bidders who have quoted higher on an equal basis.

Q. And have they taken it?

A. They have.

Q. You mean you sometimes have had transactions of that character?

A. We have.

Q. And has that occurred more than once in the course of the ten years you mentioned?

A. It has.

Q. Have you ever noticed whether two persons or concerns whose bids were alike——

MR. DICKINSON: (Interposing) You spoke of ten years; do you mean that?

MR. LINDABURY: It is nine years, then.

MR. DICKINSON: You had better make it eight, I guess, if you are going to stick to 1905.

MR. LINDABURY: No, that is nine years.

By MR. LINDABURY:

Q. What time in 1905 did you begin?

A. I think I undertook the duties on the 1st of January, if I recall it correctly.

Q. Have you observed whether or not two concerns who happened to bid the same price on any given occasion continued to do that thereafter?

A. I do not recall that that has ever been the situation.

Q. Do you think you would have noticed that or remembered it if it had occurred?

MR. DICKINSON: I object to that as arguing and hypothetical.

MR. LINDABURY: It is not arguing; it is asking for his "think."

By MR. LINDABURY:

Q. Will you answer?

A. I think I should have noticed it. I think there would be no question but what I would have noticed that if there had been a continued similarity of price, exact quotations on the part of any two bidders.

Q. Why would you have noticed that?

A. Well, I think that would be one of the most natural

MR. DICKINSON: I object to this as calling for a conclusion of the witness and a mere opinion upon a state of facts which he may consider as the basis of his conclusion, the facts themselves not being shown.

THE WITNESS: No; more probably in my opinion due to the fact that we had what might be termed boom times when the market was strong, and a large demand being made upon the manufacturers for steel; in other words, a strong market.

By MR. LINDABURY:

Q. Did the concern or concerns that at any given time bid highest always thereafter bid highest, or were there changes in that respect in relation to each other?

A. To the best of my recollection—I can not quote the actual figures—their prices have varied. Different bidders have sometimes been higher, and others have been sometimes lower. I should say that there has been what might be termed an average shake-up in the prices.

Q. That does not quite meet the question, which was, whether or not a concern that was sometimes, or at one time, the highest, was always the highest?

A. That is not the case.

Q. And were the concerns, or was the concern that happened to be the lowest at one time, generally the lowest, or did they change places in that respect, too?

A. They changed places in that respect.

Q. Did you or not award your contracts to the lowest bidder? Was that your ordinary practice?

A. To at least one of the lowest bidders.

Q. And if there were two bidders who were low and alike, what did you do?

A. We usually split the tonnage.

Q. That has happened sometimes, has it?

A. It has.

Q. Have you pursued the same course in the purchase of your other requirements; that is, shapes, sheets, plate, shafting, wire products, and springs, that you pursued in the purchase of bars?

A. Yes.

Q. You have gotten quotations from those who manufactured them?

A. Yes.

Q. And generally from a considerable number or not?

A. About the same number, as I have stated heretofore.

Q. And did those quotations agree, or did they vary?

A. They varied.

Q. Did they or not vary to the extent that you have stated with respect to the quotations on bars?

A. To the best of my recollection I should say that they varied about the same. I could not make a positive statement as to whether there might have been a little more variance or a little less, when you take them all as a lump proposition.

Q. Take them all together: tell me whether or not you recollect any occasion when the majority of those who bid on any one of these products bid the same price?

A. To the best of my recollection I can recall no instance in which the majority of the bidders at any one time bid essentially the same price.

Q. Or on any one of these articles?

A. On any one of them.

Q. Have you at any time during the nine years that you have been purchasing observed any indication of price fixing among the manufacturers of any of these articles which you have been buying?

Mr. Dickinson: That is objected to as calling for an opinion of the witness, and a conclusion based upon an undisclosed state of facts that he may consider, but which is not shown.

Mr. Lindabury: I thought we agreed two or three weeks ago that that objection should be understood to be entered to all such questions.

Mr. Dickinson: But it was understood that I could enter it specially if I desired to do so.

(The stenographer repeated the pending question.)

The Witness: I have not observed it, no.

By Mr. Lindabury:

Q. You purchase many articles besides these steel products, do you not?

A. We do.

Q. You are engaged in the sale of your products in competition with some 40 other people?

A. Essentially that number, yes.

Q. Have the market conditions attending the purchase and sale of these products been any different from those which have obtained during the same time with respect to other articles that you have either purchased or sold?

A. There has been no great difference between other articles that we have purchased, but probably no such variance as in the case of the articles which we have sold,—if you follow me. If I understood the question, I was asked if I had observed that there had been an equal variance in other articles which we have purchased, and so I should say about the same in articles purchased, but not as much variance in the articles sold. In other words, our product has had a pretty varied career as to selling price.

Q. That is, there has been more variation——

A. (Interposing) In the goods which we have sold than in the goods which we have purchased. That would be to the best of my recollection.

Q. Has there been any time during the last nine years when competition for your trade in these steel products which you have purchased has not been keen?

A. There has always been competition.

Q. I said keen competition.

A. By comparison with other goods which we have purchased, I should say that there had been equal competition.

Q. Are you visited by the sales agents of these different concerns from time to time?

A. We are.

Q. Frequently?

A. Very often.

Q. And for what purpose?

A. For the eventual purpose of selling us goods.

Q. Do they try to do that?

A. Exactly. A salesman often calls.

Q. Do they quote prices to you?

A. Not always, no.

Q. Do they do it to any considerable extent? What do they come for?

A. They always quote us prices when they know we are in the market.

Q. That is what I mean; they ascertain whether you are in the market or not?

A. Exactly.

Q. If they find you do not want to buy they go away?

A. To the best of my recollection, in the majority of cases, if he was a good salesman; it would be a poor salesman that would quote a price if he hadn't any prospect of selling.

CROSS EXAMINATION.

By MR. DICKINSON:

Q. You think in the majority of cases they go away; is that what you state?

A. I did not say that, I think.

MR. DICKINSON: Repeat the answer.

(The answer was repeated by the stenographer.)

THE WITNESS: I mean in the majority of cases he would be a poor salesman.

By MR. DICKINSON:

Q. You do not mean to say that in the majority of cases they went away?

A. I should have to stop and think about that.

Q. Just stop and think then, will you, and answer it.

A. Well, I should say the salesmen that called upon us to sell steel failed to sell more times than they sold on their calls.

Q. Did you understand me to ask that when you answered? What did you understand me to ask?

A. I thought you asked me if in a majority of cases salesmen called and left without quoting prices.

Q. I thought you said in the majority of cases if he did not sell he went away. Repeat the answer.

(The answer was again repeated by the stenographer.)

By MR. DICKINSON:

Q. The question is if they found you did not want to buy they went away; and I understood you to say that a majority of them did. Did you mean that or not?

A. I answer yes to that, yes.

Q. What did you do with those that hung around and didn't go away; how long did they stay?

A. I do not recall that I ever had one hang around.

Q. Well, then, all of them went away?

A. If my understanding is correct—if a man comes to my office—I am getting a little confused here—if a man comes to my office, a representative of a steel company, he may come simply to see how our general business is, and when we are going to be in the market for steel, and we will give him our information to the best of our knowledge. If we are not in the market he very seldom will quote us a price, and as I stated before, he probably would be a poor salesman who would quote a price without any prospect of a sale. Now, then, in the majority of calls that I have had in my experience I should say that they sold less times than they failed to make a sale.

MR. LINDABURY: You do not mean that; you mis-spoke yourself. You do not mean that they sold less times than they failed to make a sale. That don't make sense.

THE WITNESS: They failed to make a sale——

MR. LINDABURY: You do not want that, Judge.

MR. DICKINSON: Yes, I do. And I object to counsel stating that he mis-spoke himself. I have him under examination now and it is important that I have control of the witness.

By MR. DICKINSON:

Q. Now, you were purchasing agent in 1905 from June?

A. Yes.

Q. And in 1906?

A. Yes.

Q. Any other years?

A. I think I was purchasing agent in 1907 for at least part of the year, to the best of my recollection.

Q. How much?

A. I cannot tell you the definite date; about half of the year I should judge.

Q. After you ceased to be purchasing agent did anybody else become purchasing agent?

A. Yes.

Q. Who was that?

A. James Sheppard.

Q. Is he with you now?

A. He is.

Q. How long has he been with your company?

A. Oh, I think about seven years.

Q. What age man is he?

A. I should say he was about 38.

Q. How old are you?

A. Thirty-four.

Q. Now, when you were purchasing agent did you have entire control of the purchases?

A. The absolute final decision was not left to me, no.

Q. Just tell what authority you did have.

A. I was responsible for securing all the bids, and fairly largely responsible for placing the contracts. A consultation was usually had on the largest contracts with the officers of the company.

Q. And on those that you do not classify as the largest you placed them?

A. I did.

Q. Well, now, take the year 1905; take bars; do you know what tonnage of bars you placed yourself and what tonnage you placed upon consultation?

A. In 1905?

Q. Yes.

A. To my recollection I think I can safely say that there has been a very small proportion of the total tonnage of bars without consultation, by me.

Q. Is that as near as you can give the proportion?

A. Well, if you wish me to state the exact proportion——

Q. (Interposing) No, I don't want you to state the exact proportion.

A. If you do I would hazard the opinion and state that there might have been ten per cent.

Q. What tonnage of bars did you buy in 1905; from whom did you buy them, and on how many contracts?

A. In 1905?

Q. Yes.

A. I cannot recall.

Q. Can you not recall the tonnage?

A. I could tell you approximately the tonnage in 1905; to my recollection it was an average year.

Q. Do you mean to say that you bought as much in 1905 as you did in 1912 or 1911?

A. I think we did, yes.

Q. And your business has not increased since 1905 in bars?

A. I should say that our business in bars was a little heavier now than it was then.

Q. How much heavier?

A. Oh, perhaps ten per cent.

Q. So that bars is the largest part of your steel purchases?

A. The largest part.

Q. Three fifths of it?

A. About that, yes.

Q. Now, tell me as near as you can about the tonnage in bars that you got in 1905.

A. Approximately 3,000 tons.

Q. How many purchases covered that 3,000 tons?

A. Anywhere from two to five.

Q. How much of it was covered on contracts and how much by hand to hand purchases?

A. Probably 90 per cent. on contracts and 10 per cent. off.

Q. Now, do you know what part of the year you made the first contract?

A. In 1905?

Q. In 1905?

A. I cannot tell you exactly, but our usual method is as I have stated, to place the contracts around the first of July; or in other words at the expiry date of our contracts.

Q. Well, now, 90 per cent. of 3,000 tons which was covered by from two to five contracts, were all those made about July, all those five contracts?

A. If it was two, they would probably be made about July; if it was five, they were probably spread out during the year.

Q. If it was two, with whom did you make them?

A. In the year 1905?

Q. Yes.

A. I do not think I can tell you; I can not tell you positively; I can tell you who I think they were, as I recall it.

Q. Can you tell me a single one that you know positively?

A. Yes, sir.

Q. With whom?

A. Beals & Company, the Republic.

Q. The Republic Steel Company?

A. The Republic Steel Company, through Beals & Company.

Q. What was the tonnage under that contract?

A. I should judge it was about 1,200 to 1,500 tons.

Q. Do you know with whom else you contracted that year?

A. The Carnegie Steel Company.

Q. What tonnage?

A. You asked me if I knew. I can not state positively whether we had a contract with the Carnegie Steel Company at that time, but I am reasonably sure that we did, and if so, the tonnage was probably about 1,000 tons.

Q. Now, that would account for two contracts if there were two; if there were five, who were the others with?

A. Jones & Laughlin.

Q. What tonnage?

A. Oh, about, say, 500 tons.

Q. Now, who were the other two?

A. 500 tons is probably high for that.

Q. Well, what would you put it at?

A. Say 250 to 500 tons; somewhere in that range.

Q. Take the other two?

A. Cambria Steel Company.

Q. How much tonnage?

A. About the same amount.

Q. The same amount as what?

A. As the last, as the Jones & Laughlin.

Q. What do you put that at?

A. 250 to 500 tons, I think I stated.

Q. Who was the other one with?

A. If I understand this correctly, your question was that if

we did contract with five, who were the five, and approximately what were the tonnages? Am I right?

Q. Yes.

A. It might have been the Bourne-Fuller Company.

Q. It might have been?

A. Yes.

Q. Do you know, as a matter of fact, that you did contract with any company that year of those that you have named?

A. Yes, sir.

Q. Which do you positively recall that you did contract with and for what tonnage?

A. I can absolutely recall that we contracted in the year 1905 with Beals & Company quoting on the product, presumably, of the Republic Iron & Steel Company.

Q. And for what tonnage?

A. The exact tonnage I can not swear to, but I could with reasonable safety swear that it was at least 1,000 tons, and it might have been 1,500.

Q. What price did you pay for it?

A. In 1905?

Q. Yes.

A. I think it was probably $1.40 Pittsburgh.

Q. Are you guessing, or have you got a recollection about it?

A. If I could refer to a sheet of paper in my pocket, I could tell you exactly.

Q. I want you to refer to the sheet of paper in your mind. Tell me what you know, if you do know.

A. I think it was $1.40.

Q. Do you have any recollection it was $1.40?

A. I have a very good recollection.

Q. That it was $1.40?

A. Yes, sir.

Q. Now, do you know what the market price quoted at that time on bars was?

A. I think it was about that.

Q. Do you know who else bid on bars at that time?

A. I think the other concerns which I have mentioned probably did bid.

Q. Have you any recollection that they did?

A. I have, yes; I have a recollection.

Q. Which ones do you recollect bid upon that contract that you awarded to Beals?

A. In 1905?

Q. Yes.

A. I think my recollection will probably be pretty good on this, because that is my first year as purchasing agent, and I was probably a little scared as a neophyte; Beals, Jones & Laughlin.

Q. Do you know what Jones & Laughlin bid?

A. No, I do not.

Q. Who was the next one you remember, if any?

A. Cambria Steel Company.

Q. What did they bid?

A. I can not tell you.

Q. Do you remember anybody else's bid?

A. I don't remember. I could not swear that the figure that I mentioned was positively the figure at which the Beals contract was written, any more than that I know that I have a distinct recollection in my mind that our steel products averaged, on our contracts for the season of 1905, about $1.40.

Q. And so you are speaking from your recollection of an average, and not from your recollection of that contract?

A. Exactly.

Q. And you do not, as a distinct recollection, know what that contract price was?

A. No, I do not.

Q. Now, in the year 1906 what tonnage did you buy in bars?

A. I should say about the same.

Q. About what?

A. About the same tonnage that we bought in 1905.

Q. Well, what was that?

A. I think I said our average tonnage was about 5,000 tons, all told.

Q. So you think you bought about 5,000 tons in 1906?

A. Speaking of bars or steel, all?

Q. Talking about bars.

A. That is another matter; about 3,000 tons.

Q. About 3,000 tons?

A. Yes, sir.

Q. How many contracts for that year were written contracts?

A. In 1906?

Q. Yes.

A. I can not recall.

Q. From whom did you buy in 1906? Can you recall that?

A. I can recall at least two that we bought from, with reasonable assurance—yes, I can say that I know of two.

Q. State what two they were.

A. Beals—the Republic.

Q. What tonnage did you get from Beals?

A. That I can not swear to.

Q. The Republic?

A. I can not swear to that, but I should say that it was probably about the same as it was in 1905, from 1,000 to 1,500 tons.

Q. That is to say you think that in 1906 you bought from the Republic the same amount——

A. As we did in 1905.

Q. Whom did Beals represent?

A. Beals & Company of Buffalo are a jobbing firm.

Q. I know; whom did they represent?

A. I have stated heretofore that presumably they were bidding on the product of the Republic Iron & Steel Company.

Q. That is what I understood. Now, in 1906?

A. The same holds good.

Q. Yes, but I understood you to say that you had a contract with Beals and the Republic. Is that a mistake?

A. No. You misunderstood me, then.

Q. I did, then.

A. "Beals—the Republic," I said.

Q. And about the same amount as you had in 1905?

A. Yes, sir.

Q. With whom else did you have a contract in 1906?

A. We had a contract with the Cambria Company, to the best of my recollection.

Q. Do you mean by that that you recollect that you did?

A. If my recollection serves me right, we had a contract in 1906 with the Cambria Company. In other words, in making these statements I am going upon my recollection to this extent; that we usually have had a contract, practically every year since I have been connected with the institution, with most of the concerns that I have mentioned.

Q. That is what I wanted to get at—whether, in speaking of this matter of memory, you are just going on something that is usual, or whether you, as a distinct, separate memory, recall that you had a contract with the Cambria, independent of any custom?

A. I could not make that statement except as you have last stated.

Q. Were these contracts made at the same time?

A. That I could not answer positively.

Q. At what price did you purchase from Beals in 1906?

A. I don't recall.

Q. Who bid upon the contract that you awarded to Beals?

A. I cannot tell you absolutely.

Q. What bids were made? Can you tell that?

A. I have not looked it up to refresh my memory, but I should judge that we had had bids from the Carnegie Company, from Cambria, from Jones & Laughlin; at least those.

Q. You say you should judge. I am not asking anything except what you remember. Can you remember that you did, that year, have bids from them?

A. Yes; I think I can.

Q. On that particular contract that you awarded to Beals?

A. The price, you ask?

Q. No. I say: Do you say that you remember that you had bids from the Carnegie and Cambria upon that particular tonnage that you awarded to Beals?

A. I cannot recall that, no, positively.

Q. If you did have any bids from Carnegie and Cambria, do you know what they were?

A. No; I don't recall.

Q. Take 1907; have you any recollection as to the tonnage in bars you bought that year, or only a general average recollection?

A. Only a general average recollection; that is all.

Q. Do you know from whom you bought that year, and what time you bought, and how many written contracts you had?

A. I think about the same as in 1907.

Q. I am talking about 1907.

A. About the same as 1906, then. I have no distinct recollection of 1907.

Q. Have you any recollection as to whom you contracted with?

A. Yes.

Q. With whom?

A. Beals & Company.

Q. Anybody else?

A. The Lackawanna. I recall that because I think 1907 was the first year that we purchased from the Lackawanna any stock.

Q. Anyone else?

A. I think we had a contract with Carnegie in 1907.

Q. State whether or not you remember that you did?

A. To the best of my recollection we did.

Q. What tonnage was it you awarded to Beals?

A. We awarded them a tonnage, if I recall it correctly, of something less than we had heretofore; probably about 800 tons.

Q. What tonnage did you get from the Lackawanna?

A. Probably about the same amount.

Q. Did you buy any tonnage from Carnegie?

A. That I am not positive of. I think we did.

Q. This contract you awarded to Beals. What time of the year was that?

A. I cannot tell you.

Q. And the one to the Lackawanna; what time of the year was that?

A. I cannot tell you.

Q. What was the price at which you purchased from Beals?

A. I don't recall.

Q. What was the price at which you purchased from Lackawanna?

A. I do not recall that.

Q. On this contract that you awarded to Beals, who bid beside Beals?

A. In 1907? I cannot tell you.

Q. And the one to the Lackawanna: Who bid besides the Lackawanna?

A. I say I cannot tell.

Q. Nor what the bids were?

A. The price? No, I cannot recall.

Q. In 1908 your new purchasing agent began?

A. I may be wrong on these dates a little. I think it was 1908.

Q. If it was not 1908, what do you think it was?

A. It might have been 1907. It was one of those years. I think it was 1908, yes.

Q. You think he began in 1908? What part of the year?

A. I think it was about the 1st of June.

Q. In 1908 what bar contracts did you have?

A. I do not recall.

Q. In 1909 what bar contracts did you have?

A. I will go back on that, if I may—my answer to the previous question.

Q. All right, go back.

A. I think I can recall that we had a contract with the Carnegie Company in 1908. We also had a contract with Beals & Company.

Q. Anybody else?

A. We also had a contract with the Lackawanna.

Q. What tonnage did you get from the Carnegie?

A. I cannot tell, for the reason that our contract with the Carnegie Company and most of our steel contracts, cover bars, shapes, structurals, universal plates, etc., and the only thing that serves my recollection is the total tonnage; and just what percentage of that tonnage was taken in bars on each contract I cannot tell.

Q. Give me the total tonnage, then, that you had with the Carnegie in 1908.

A. Probably about 800 to 1,000 tons.

Q. What was included in that contract with the Carnegie; state the different kinds of steel products?

A. Bars, hoops and bands.

Q. What else?

A. Structurals, small shapes, universal mill plates, beams and channels. I do not know but the beams and channels would come under the structurals.

Q. You say you had a contract that year with Beals?

A. Yes.

Q. What did your contract with Beals cover?

A. Bars, shapes, structurals. I think that is all.

Q. Well, now, on this contract that you awarded to the Carnegie Company, was that awarded as an entirety, covering all these different commodities?

A. Yes.

Q. Now, did anybody else bid on that entire contract except the Carnegie Company, that you know of?

A. I think the Lackawanna contract was of a like nature.

Q. I am not asking you whether the Lackawanna contract was of a like nature. I asked you on this contract——

A. (Interposing) If anybody else bid on the same requirements?

Q. That you awarded to the Carnegie Company?

A. I should say so, yes.

Q. You say you should say so; do you remember that anyone did?

A. I remember that the Lackawanna quoted us in 1908, and I have no reason to think now that they did not quote us on all these requirements, because they were within the range of their product.

Q. Well, you are reasoning, now, upon their ability to quote, but I am asking you, now, if you remember that they did quote you on that particular contract, and upon the requirements that were covered by it.

A. I can not be sure of it.

Q. Then you do not know that anybody but Carnegie quoted you on that, do you?

A. Yes.

Q. Who?

A. Beals.

Q. Did Beals quote on plates?

A. Do I understand your question to mean—did they quote on everything that I mentioned, in that contract?

Q. That is what I said.

A. Beals quoted on everything except the universal mill plate.

Q. Well, then, they didn't quote on everything in that contract?

A. No, sir; because they could not.

Q. So that the Carnegie was the only one that quoted on everything in that contract?

A. No.

Q. Who else did?

A. The only item under that contract that Beals did not quote on was universal mill plate; the Carnegie quoted on all the items that Beals quoted on, and in addition to that, the universal mill plate. Now, the Lackawanna Company, I know, quoted on the universal mill plate; whether they quoted on the balance of the material or not I can not be positive.

Q. That is exactly what I asked you, if you know that anybody quoted on everything in that contract except the Carnegie Company.

A. You mean any person or persons?

Q. No, sir; I mean did any concern other than the Carnegie Company quote on all the commodities embraced in this contract that you awarded to the Carnegie?

A. Yes.

Q. Tell me who.

A. Beals and the Carnegie. The point I am driving at is that I can not state positively whether the Lackawanna quoted on absolutely everything *in toto* that the Carnegie Company quoted us on, but I know that the Lackawanna Steel Company did quote us on the universal mill plate. In other words.

there was more than the Carnegie's quotation in hand with us on each item that I mentioned in the first place.

Q. Mr. Olmsted, the question that I am asking you is this: If any concern except the Carnegie, upon that order that was awarded to the Carnegie, quoted to you upon all of the various things included in it?

A. I can not recall whether any one concern quoted on all those items.

Q. Now, what was the base price quoted to you by the Carnegie on that purchase of bars?

A. This was 1908; I do not remember.

Q. Do you remember what the market price was then on bars?

A. If I have it correct in my mind, 1908 was the year.

Q. I mean at the time this contract was awarded, or the bids were made; put it either way.

A. I think that was the year in which the contracts—we awarded one contract in 1908, I think, at $1.40, and we awarded another one at less than that.

Q. Did you understand me to ask you at what price you awarded the contract?

A. Yes, I did.

(The last two questions, combined, were repeated by the stenographer.)

THE WITNESS: Approximately.

By MR. DICKINSON:

Q. What time was this contract awarded, or the bids made?

A. I think about June.

Q. Well, now, what was the market price on bars at that time?

A. I can not recall what it was in June, 1908, with absolute assurance.

Q. In 1909 what contracts did you have for bars, and with whom?

A. I can not be positive about that.

Q. Do you know whether or not there was a sharp cut in bars in 1909?

A. It was either in 1908 or 1909.

Q. Do you remember one in 1909?

A. Before I answer that question, let me say that with the exception of the cases which I have stated, that I think I absolutely remember, our prices for steel usually average over what we call our building season; that is, from July of one year to July of the next. In other words, when you asked me the question: did this cut occur in 1909, I can not be positive whether it occurred in 1908 or 1909, but in the 1908-9 season, as we call it.

Q. That is to say, from June, 1908 to June, 1909?

A. July, 1909.

Q. July, 1909?

A. Yes.

Q. It occurred in there, but whether it occurred in the early part of 1909 or the latter part of 1908, you do not know?

A. I do not recall, no.

Q. How extensive was the cut on bars?

A. I have forgotten exactly, but I think it was about two or three dollars a ton.

Q. Don't you know that the price went as low as $1.05 during that period?

A. I have heard that it did, but we bought no bars, to the best of my recollection, as low as $1.05.

Q. What is the lowest you got on them in that year that you spoke of, 1908-1909?

A. I think it was $1.10.

Q. During the year 1909 I believe you said you could not recall with whom you had contracts?

A. In 1909; no, I do not.

Q. You do not remmber, then, the times you made them, do you?

A. No, I could not.

Q. Then you don't remember the prices at which you made them?

A. No, I cannot tell.

Q. Nor the quotations you got?

A. No.

Q. Nor from whom you got them?

A. No, because I was becoming less familiar with the closer

attention to the detail of getting those contracts, and so forth, and devoting more of my time to the sales end of the business, hence the difference in my recollection latterly, rather, as against my earlier recollection.

Q. You mean after you got to be purchasing agent you became less and less in close touch with that end of it; is that it?

A. No; I supervised the purchases, but one's recollection is usually assisted by having had close attention to the securing of the bids, and my mind was more taken up with that in the early period of my connection with the purchases of the company than latterly, hence my recollection latterly is not as good.

Q. So, from 1908 on you did not pay as close attention to the securing of the bids as you had prior to that time?

A. Correct.

Q. And your recollection, then, in respect to bids and quotations is not as accurate as it had been prior to that time?

A. That is what I say, yes.

Q. Well, now, take 1910: can you state with whom you had contracts for bars that year, and who bid and what the contracts were?

A. Why, I can remember in 1910 at least three concerns who bid; with whom we placed the contracts, I won't be positive—Beals.

Q. Who else?

A. Bourne-Fuller Company.

Q. Go on.

A. Carnegie, Jones & Laughlin; I think I can safely say that I recall those, and there may have been others.

Q. You recall those in what connection? As having done what?

A. I recall those in 1910. Well, to be frank about it, I recall that Jones & Laughlin bid us that year, because the quotation was given to me on the telephone. I was telephoned about it when one of my children was very ill that year; that is one reason I remember that Jones & Laughlin bid.

Q. Are you through?

A. Yes.

Q. Since you say you are going to be frank about it, just tell us, now, what other bids you recall in 1910.

A. My frankness was occasioned by mentioning the illness of my child. What was the question, again, please?

Q. The question is, what your memory is as to those who bid in 1910 on bars.

A. Yes, sir.

Q. You say you do remember Jones & Laughlin?

A. Yes, sir.

Q. By a particular incident?

A. Yes, sir.

Q. Now, do you remember positively any others?

A. Yes; I remember the other two that I have mentioned?

Q. The other two?

A. Yes.

Q. Which two?

A. Carnegie and Beals.

Q. Those are the only two that you do remember?

A. Yes.

Q. To whom were the contracts awarded that year on bars?

A. I think we placed bars with all three of them.

Q. Do you know whether you did or not?

A. I am not positive; no.

Q. Do you know the tonnage that you gave them, respectively?

A. No, sir.

Q. Do you know the prices at which they were contracted?

A. No, I can not state positively.

Q. Do you know the times of the year at which they were made?

A. Yes, I do.

Q. When?

A. I know about the time; I know about the time that the quotation I speak of was made—Jones & Laughlin's quotation.

Q. What time was that?

A. That was in April.

Q. And the contract was made when?

A. I think some time within 60 days thereafter.

Q. Within 60 days thereafter?

A. I say 60 days, because if my recollection is correct, it was some time about within 60 days, I think; I am not sure.

Q. So the only bidders that you positively remember that year—the bid may have been as much as 60 days before the contract was made?

A. Yes; it may have been.

Q. Do you know what these other bids were, if you got any other bids?

A. Those that I have mentioned——

Q. (Interposing) I am not asking the names, now; what the bids were?

A. No, sir; I don't remember.

Q. Do you know the prices at which the contract was awarded that year?

A. I can not be positive; I think it was $1.15.

Q. Is that from memory, or just a general thought? What I mean to say is, does your mind reproduce it as a recollection?

A. My mind reproduces as a recollection $1.15.

Q. Do you mean to say that that was the price at which that specific contract was made, or are you speaking of an average price running over a period of that year, June, 1909, to June, 1910, when you speak of $1.15?

A. No, I am speaking now of the image on my brain as you quoted a moment ago on that particular deal.

Q. With whom was that contract made?

A. It was either Beals or Jones & Laughlin, and I think Beals.

Q. So you carry in your mind an image of the figures, but do not carry a distinct recollection as to whom you made the contract with?

A. No, I do not, for the reason that the image in my mind is of two contracts, one with the Steel Corporation and the other with Beals, and which one it was that was $1.15, I can not tell you, but I have got that recollection.

Q. If one was $1.15, what was the other at?

A. Presumably at the same price.

Q. Then the prices, you say, were the same, as far as you recollect?

A. Yes, as far as I recollect.

Q. And you say that you did make contracts with the both of them?

A. To the best of my recollection, yes.

Q. Were those contracts closed on the first quotation made by whoever quoted prices?

A. I don't remember.

Q. Do you know what the original quotations were from any one on those particular contracts?

A. I do not.

Q. Or who made them?

A. No, I do not remember.

Q. Take 1911: with whom did you contract for bars?

A. I think we contracted with the Carnegie Steel Company.

Q. What tonnage?

A. I think about 1,000 to 1,500 tons, probably.

Q. What time of the year?

A. Well, I remember that contract for the reason that—yes, that was in April.

Q. So that varied from the ordinary times?

A. Yes.

Q. Of making contracts?

A. Yes, sir.

Q. What price did you pay on bars?

A. I do not recollect what it was. I think it was $1.15, but I won't be positive.

Q. Who else bid on that contract and what were the bids?

A. I cannot be sure, but I am reasonably sure that we got bids from all the usual sources which I have heretofore mentioned. I cannot swear that we actually got bids from each of the concerns from whom we usually did, but I think we did.

Q. Can you swear that you got any bids on that from anybody but the Carnegie? If so, just state whom?

A. Yes; I can swear that we got a bid from the Lackawanna Steel Company.

Q. Anybody else?

A. I cannot swear to any other, no.

Q. What was the bid of the Lackawanna Steel Company?

A. I don't remember.

Q. When was that bid made?

A. Yes, I do. I think I remember what the bid of the Lackawanna Steel Company was. It was a few cents lower than the Carnegie.

Q. When was that?

A. I say if the Carnegie was $1.15, the Lackawanna was probably about $1.12. The reason for my recollection of this contract is that the question had come up—just at what particular time I don't remember now—the question of Pittsburgh-Buffalo freight and Lackawanna Steel Company freight into our plant, and we contracted with both the Lackawanna Steel Company and the Carnegie Company; and the Lackawanna Steel Company's price originally was higher than the Carnegie Steel Company's quotation, and we offered them a part of the tonnage.

Q. You offered who a part of the tonnage?

A. The Lackawanna Steel Company. We offered them a part of the tonnage. The Carnegie's quotation was the lowest and we offered them a part of the tonnage—this is my recollection now, on the same basis, on the same basis of price, based on Pittsburgh, I will put it—with an additional allowance to cover the difference in freight; the Lackawanna freight to our plant being less than the Pittsburgh rate of freight to our plant; and we so closed a contract with them. Just what the particulars were I cannot say.

Q. Did you close these contracts at the same time?

A. Approximately at the same time.

Q. What was the tonnage of the Lackawanna contract?

A. I cannot say.

Q. When did the Lackawanna make the bid upon that tonnage, the first bid?

A. I cannot tell you. It was some time probably within thirty days of the date of the placing of the contract.

Q. Those are the only two that you can recall that bid on that?

A. Those are the only two that I absolutely recall, yes.

Q. What other contract did you have that year for bars—1911?

A. I don't remember.

Q. That is the only one you can remember for 1911?

A. Not the only one; the only two.

Q. I am treating them as one. Those are the only two you can remember?

A. Yes.

Q. That was not nearly all of your requirements, was it?

A. That was a good part of our requirements; the largest part of our requirements in bars.

Q. In 1912 what contracts did you make for bars?

A. The statements which I have just made in reference to these two contracts with the Lackawanna and the Carnegie Company are correct, according to the best of my recollection, but now that you mention 1912, I cannot remember whether that was in 1911 or in 1912.

Q. And you do not know which? If it was 1911, what can you tell us about 1912 as to whom you bought bars from?

A. If that was 1911, as to 1912 we bought bars from Jones & Laughlin—no, we did not; I am mistaken. If it was 1911, in 1912 we bought bars from the Carnegie Company, from Beals, and from the Lackawanna.

Q. At what time did you make a contract with the Carnegie Company?

A. This being on the assumption that my previous statements referred to 1911? Am I correct?

Q. This is on the assumption that what you were telling about occurred in 1912?

A. Yes; that this is 1912 that we are talking about now?

Q. Yes. I am asking you about 1912—your memory about 1912.

A. Yes.

(By request of the witness the stenographer repeated the pending question as follows:)

"Q. At what time did you make a contract with the Carnegie Company?"

A. I don't remember.

Q. At what time did you make a contract with either of those?

A. I don't remember the times of the contracts.

Q. Do you remember the tonnage with either?

A. No, sir; I could not state that.

Q. Do you remember the contract price with either?

A. I cannot swear to it.

Q. Do you remember what the bids were on the Carnegie contract?

A. I think the bids in 1912 ranged between $1.15 and $1.25.

Q. On that Carnegie purchase, I mean, on that particular contract that was awarded to the Carnegie; that is what I am asking about.

A. Yes; the bid was somewhere between those figures, I should judge.

Q. Do you know who made the bids, respectively?

A. No; but I am carrying in my mind, now, a recollection of the range of prices in the quotations, and, as I remember it, it was a range between $1.15 and $1.25.

Q. Do you know who bid the $1.15?

A. I think the Carnegie Company did.

Q. Do you know that they did?

A. I cannot swear to it.

Q. Do you know who bid $1.25?

A. No.

Q. Do you know how many bids there were on that contract?

A. No, sir; I do not.

Q. Coming down to the one you awarded to Beals, do you know what the bids were and who made them?

A. The Beals?

Q. Yes.

A. No, I do not remember.

Q. Now, as to the one you awarded the Lackawanna: do you know what the bids were and who made them?

A. This is in 1912; no, sir; I am not positive.

Q. Well, in 1913, what contracts have you made for bars?

A. When you are speaking of 1913, I am carrying in my mind 1913-1914, you see?

Q. Yes; that is what I am asking. Before you meant 1911-1912, did you not?

A. Yes. Now I am carrying in my mind 1913-1914.

Q. That is to say now, it is 1913-14?

A. 1913-14.

Q. What was the last one you understood to be, 1911-12?

A. 1911-12.

Q. No, it would have been 1912-13?

A. I beg your pardon; it would be 1912-13.

Q. Now, take 1913-14. What contracts have you made for bars?

A. We have got one contract.

Q. With whom?

A. Carnegie.

Q. What tonnage?

A. I don't remember the exact tonnage, but it is approximately somewhere between ten and twenty per cent. of our probable requirements.

Q. And that is the only contract you have made?

A. Yes.

Q. And when was that contract made?

A. I think it was made in August.

Q. In August?

A. Yes.

Q. Did you make it?

A. I did.

Q. Who submitted bids on that particular tonnage besides Carnegie, and what were they?

A. I do not recall that we got any specific bids then.

Q. What was the contract price?

A. I think it was $1.40.

Q. What was the market price at that time?

A. The Lord knows, I do not.

Q. Do you know of a cut in 1911 connected with the Republic cut?

A. In 1911?

Q. Yes.

A. That is our season, 1911-12; that is from July, 1911, to July, 1912.

Q. No, the previous year, 1910-11.

A. In 1910-11 there was a cut.

Q. About what time?

A. I think it was in the spring, sometime, of 1911, if I remember.

Q. What was that cut in bars?

A. It was somewhere between $2 and $4 a ton, I don't remember which.

Q. Did you understand at the time it was made by the Republic?

A. No.

Q. You do not know that?

A. No; you say made by the Republic, the cut?

Q. Yes.

A. I do not know who made it specifically, but I know that any contracts that we had were reduced to take that into consideration.

Q. You got the benefit of it?

A. Exactly. We always do; never have made a contract for steel except on that basis.

Q. Now, do you carry in your mind any two bidders on any one occasion, and then how those bidders stood in respect of each other on any other occasion?

A. I do not know that I can specifically say; I do not recall any instance, however, where—yes, I can too. I can recall specific instances where Beals' quotations—the Republic—have been higher than the Carnegie. May I put it this way—where the Carnegie would be lowest, and the Lackawanna would be second. No, I beg pardon. Yes—the Lackawanna would be second and Beals & Company the highest. If you ask me when that was I cannot tell you, because I simply recall an instance where that was the case.

Q. Do you carry in your mind any occasion where two bid the same, and then on any subsequent or previous oc-

casion what their bids were or what their relation was to each other? If so, just specify.

MR. LINDABURY: Of course you mean the relation of their bids to each other?

MR. DICKINSON: Yes; I think that was plain.

MR. LINDABURY: Because they may have had other relations. Do you understand the question?

THE WITNESS: I was trying to get it in my mind.

MR. DICKINSON: Read it again.

(The question was repeated by the stenographer.)

THE WITNESS: I do not know that I do carry it distinctly in mind.

By MR. DICKINSON:

Q. Is it not a fact that on various of these products that you have been buying, from the time you began down to the present time, that over periods of time, sometimes weeks at a time and sometimes months at a time, the market price, or what was understood among you people who were in that line of business as the market price, continued the same?

A. Not that I recall, since I have been purchasing agent.

Q. And if there were any periods during that time——

A. You say for two or three months at a time?

Q. For two or three weeks at a time, and sometimes two or three months at a time. Do you want to add anything to your answer or not?

A. Yes; I will. I think there have been times when the trade generally understood that there was a market running along about uniform for that length of time, yes.

Q. And has that been so at different periods and in various ones of those years, throughout the time you have been speaking of?

A. I think not, no.

Q. Well, do you mean to say that has occurred in only one year?

A. No, I do not, but I cannot recall any time when it was of so long a time duration, any particular length of time sufficient that it has made any impression on my mind particularly.

Q. Don't you know that it continued in some years successively for several weeks at a time?

A. The only knowledge I would have as to that is my recollection of what I have seen quoted in the trade journals as to the prevailing prices of steel.

Q. Well, is not your knowledge derived that way?

A. My recollection serves me that those reports in the trade journals have shown times when the market on steel would be quoted "Pittsburgh, such-and-such a price."

Q. And that that would continue some years for some periods for weeks at a time?

A. Yes.

Q. Some for months at a time?

A. I cannot state how long. My recollection does not serve me how long it has run that way, but I can say with safety that I have noticed in the trade journals those quotations which have, I think, run along for a duration of time either lesser or longer; just how long, I cannot state.

Q. Do you know upon how many of those purchases where you have received bids for steel products, a majority of the bids were the same, the first bids were the same, as the market quotations; have you any recollection about that one way or the other?

A. Yes, I think I have.

Q. Well, what is it?

A. If I understood you correctly, the question was do I recall an instance where the first bid was the same as the market quotation, as shown by the trade journals?

Mr. Dickinson: I think probably I had better have the question read to you, because I do not think you got it exactly. Read the question to him.

(The question was repeated by the stenographer as follows:)

"Q. Do you know upon how many of those purchases where you have received bids for steel products, a majority of the bids were the same, the first bids were the same, as the market quotations; have you any recollection about that one way or the other?"

THE WITNESS: No, I have not, except that my recollection serves me that we have never had an instance where the majority of the bids that we received on a call for bids were uniform with the quoted market price.

By MR. DICKINSON:

Q. Do you carry in your mind the bids that were made to you on any of these purchases, sufficiently for you to say that you remember how a majority was, one way or the other? If so, just mention what instance you carry.

A. I cannot do it.

Q. Do you remember the market price at the time that you made any of these contracts that you made prior to 1912?

A. I am trying to get some one specific contract in my mind. Yes, I think I can.

Q. Well, which one have you in your mind?

A. I think it was in 1905.

Q. What contract, now, was that in reference to? What commodity?

A. Bars.

Q. With whom did you make that contract, and when?

A. I think that was the contract that we made with Beals for the Republic.

Q. What time of the year?

A. About June.

Q. Do you remember what the first quotation made to you by Beals was on that contract?

A. I think it was on a basis of $1.60.

Q. At what price did you make the contract?

A. $1.40.

Q. What was the market price at that time?

A. I think it was $1.60 at Buffalo; these are Buffalo prices.

Q. Buffalo prices?

A. Yes, sir.

Q. Who else bid on that, and what were the bids?

A. I cannot recall.

Q. Is that the only instance that you carry in your mind of that character?

A. There may have been others, but I cannot think of

them. That is the one I recall right now, in answer to your question.

Q. That is the only one you recall in respect to any of these products that you bought, is it?

A. That is the only one that I have in my mind.

Q. Now, you stated that to your knowledge you had no evidence that could give you conclusive proof that there was a combination, or words to that effect?

A. Yes, sir.

Q. What did you mean by that?

A. I meant that I never have seen any specific proof to me that there has been any combination in the matter of the making of prices. Now, that would come to me naturally through prices that had been bid. I have known of instances in other commodities, when I have been pretty sure that there has been collusion amongst the bidders.

Q. You did on occasions get bids on various of these purchases where several of the prices were the same, didn't you?

A. I would not say where several of them were the same, where there might have been two perhaps the same; I would not swear perhaps that there might not have been three, but as I have stated heretofore, my recollection is that in the majority of cases that situation has been considerably in the minority.

Q. Do you carry in your mind any recollection as to what the bids were in a majority of cases, and what their relations were to each other?

A. I probably reached my conclusion more or less by a negative process.

Q. How many transactions did you make from 1905 down to the present time in the purchase of various steel products?

A. How many contracts did I actually sign?

Q. No, not actually sign; how many were there in respect to which you knew what the original quotations were?

A. A majority of them.

Q. How many were there altogether?

A. I understand you now, how many contracts were there from 1905 up to the present time?

Q. What I am asking you is, from 1905 down to the present time how many transactions were there altogether in respect of which you yourself had personal knowledge of the original quotations that were made, in respect of the several proposals to purchase?

A. I could not state the exact number.

Q. Weren't there a great many?

A. A very large number, and there probably were not to exceed ten per cent. of all of them with which I was not familiar.

Q. With which you were not familiar?

A. Exactly.

Q. But do you carry in your mind now, of that 90 per cent., any recollection that enables you now to say what relation the bids bore to each other?

A. No more than what I have previously stated. That is, I have no recollection in my mind when I have made the statement that I considered that in the majority of cases there have been a variance in the bids, rather than the same bids. I go at that perhaps, as I stated, in a negative way; I do not recall any instances specifically where the bids were alike in a sufficient number to have impressed it upon my mind.

Q. And because you cannot recall the instances where they were alike in a sufficient number to impress it upon your mind, you reach the conclusion that they were not alike in the majority of cases; is that it?

A. I reached the conclusion sufficiently to enable me to make that statement as based upon the best of my recollection, that the same price has not been quoted by more than one concern in the majority of instances.

Q. And you reached that——

A. (Interposing) And I reached that in the method I have stated.

Q. And that method was because you could not remember the particular cases where they were; is that it?

A. Substantially, yes.

Q. Do you recall any occasion where those who bid the highest price at one time bid lower at another time? If so, state what was the occasion and who the bidders were?

A. I cannot state any specifically. I have a very good recollection, however, that that has been the case.

Q. Can you mention any case where some who were the highest changed places in a subsequent case, which you now recall, and were lower than others? If so, mention the instances.

A. I cannot mention any instances; not with absolute surety.

MR. DICKINSON: That is all.

MR. LINDABURY: I wish to inform counsel for the Government that if these cross examinations are to be as prolonged as they have been to-day, we cannot hope to get through our evidence by the 1st of March. I recognize the importance of this evidence, but I do not think it justifies an interminable cross examination.

MR. DICKINSON: I will state in reply to that that where witnesses, as in this case, have committed themselves to broad statements, the cross examination will be as long as is necessary, in my judgment, to develop the truth.

(Whereupon an adjournment was taken until to-morrow, Friday, December 19, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND THIRTY-FOURTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Friday, December 19, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. BOLLING and MR. REED.

HARRISON G. SPANGLER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Bellevue, a suburb of Pittsburgh.

Q. What is your occupation?

A. Assistant manager and purchasing agent.

Q. Of what company?

A. The McKinney Manufacturing Company.

Q. Where is that company located?

A. The North Side, Pittsburgh.

Q. What business is that company in?

A. The manufacture of hardware, principally hinges.

Q. How long have you been assistant manager of that company?

A. I cannot recall the exact year, but I think it was about 1904 that I was given the title of assistant manager.

Q. Are you familiar with the purchases of steel supplies that that company makes?

A. For some years back.

Q. For how many years have you been familiar with those purchases?

A. Since 1904.

Q. Have you been in charge of the purchases since that time?

A. Pretty generally.

Q. Take particularly the purchases of steel materials. Have you been familiar with the negotiations?

A. Yes.

Q. Since 1904?

A. Since 1904 and 1905.

Q. What kind of steel does that company buy?

A. Well, we use wire and steel known as hoops and bands and light bars.

Q. Bar mill products generally?

A. Yes; more particularly hoops and bands.

Q. About what tonnage of wire do you buy annually?

A. About 500 tons.

Q. What do you use that wire for?

A. The pin of the hinge.

Q. What tonnage of bars, hoops and bands do you buy annually?

A. I could not separate the different varieties, but approximately 10,000 tons, all told.

Q. Of bar and hoop mill products?

A. Yes.

Q. What do you use these bars, hoops and bands for?

A. Making hinges and other hardware specialties.

Q. Do you buy on annual contracts or do you buy in lots?

A. We contract at favorable periods, and buy on the open market from time to time; we have no specified contract period.

Q. You are guided in your letting of orders and contracts largely by the condition of the market, I suppose?

A. Yes.

Q. Before you make a contract or place an order do you ask quotations from different makers?

A. Yes.

Q. Taking up bars, hoops and bands first, from what companies do you ask quotations?

A. Well, we ask quotations from Jones & Laughlin, the Pittsburgh Steel Company, the Republic Iron & Steel Company, the Carnegie Steel Company, and occasionally Cambria, but they are out of our district, and the Lackawanna.

Q. The Lackawanna is pretty far away?

A. Yes; we do not very often go to them.

Q. Do those quotations that you get from these manufacturers vary or are their quotations alike?

A. They vary.

Q. How long has that been so?

A. Since my knowledge of the purchases extends.

Q. What range of variation do you get? Up to how many dollars a ton?

A. Well, as high as three dollars; from a dollar to three dollars a ton, I would say.

Q. Now, coming to your wire buying, from what companies do you ask quotations on wire?

A. The American Steel & Wire Company, Pittsburgh Steel Company, Jones & Laughlin, and occasionally quotations from the Youngstown Sheet & Tube Company, I think it is.

Q. Do you ever ask quotations from the Spencer Wire Company?

A. Yes, I have at times, for special wire.

Q. They are prety well out of your district?

A. Yes; most all the eastern factories are.

Q. Do those quotations vary too?

A. On wire?

Q. Yes, wire.

A. Yes, sir.

Q. How long have they been doing so?

A. Back as far as my knowledge of purchases goes.

Q. Is the competition for your business in bars, hoops and bands active or otherwise?

A. Active.

Q. How is it in wire?

A. The same way.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Take 1913: what tonnage have you bought of wire this year?

A. I will have to give you that approximately. I have that as a matter of record, but I do not try to carry it in my mind. I should say 350 tons or 400 tons.

Q. Did you buy on written contracts?

A. Yes, sir.

Q. How many contracts?

A. Three.

Q. State when they were made and with whom they were made, and the tonnage of each?

A. I cannot give the exact dates of them. They were made in the forepart of the year. We had a contract with Jones & Laughlin and a contract with the Pittsburgh Steel Company. At the present time we have no contract with the American Steel & Wire Company. It expired July 1st.

Q. When was that contract made?

A. That was made just previous to the first of the year.

Q. At what time?

A. I should say in December. I am not positive.

Q. Of your requirements this year what proportion have you got from the American Steel & Wire Company?

A. I don't think we have gotten ten per cent. this year.

Q. I do not mean what you have contracted for this year.

A. No; I mean actual deliveries.

Q. Of actual deliveries?

A. Yes; not ten per cent.

Q. What was the last contract you made with the American Steel & Wire Company?

A. As I say I cannot give the exact date of it. I think it was in December of 1912.

Q. What was the tonnage?

A. 200 tons or 250 tons, I am not certain which.

Q. Taking the United States Steel Corporation as a whole what percentage of your purchases in steel products have you bought from the subsidiaries of the United States Steel Corporation since you became familiar with the purchasing. per annum?

A. That is, all products?

Q. Yes.

A. 70 or 75 per cent., I think, would be a fair estimate.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. I do not quite understand about this year's wire purchases. Did you take the whole 200 tons that were called for by that Steel & Wire Company contract?

A. The American Steel & Wire?

Q. Yes.

A. No, sir.

Q. How many tons did you take under that contract?

A. I could not give you that. I know that we did not get very much on the last contract we made with them.

Q. What did you do? Did you cancel the balance of the contract?

A. It is cancelled by limitation.

Q. Why didn't you take the full tonnage under that contract?

A. Well, I had a better price, for one thing.

Q. Somebody else offered a better price?

A. Yes. A part of our wire, the large proportion of it, is for a special purpose, which requires a special grade of wire, and we had some trouble with the American Steel & Wire Company's product.

Q. And you got a more satisfactory product from somebody else?

A. A more satisfactory article from one of the other companies, yes.

MR. REED: That is all.

GEORGE HEARD

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where is your home, Mr. Heard?

A. In Pittsburgh.

Q. What is your occupation?

A. I am in the natural gas and oil business.

Q. How long have you been in that business?

A. Twenty-seven years.

Q. You are the president, are you not, of the Natural Gas Company of West Virginia?

A. Yes, sir.

Q. How long have you been president of that company?

A. Seventeen years.

Q. Where are its operations conducted?

A. We produce natural gas in Greene and Washington Counties, in Pennsylvania and in various counties in Ohio—what we call the river counties.

Q. Do you sell through that same district?

A. We sell principally in Wheeling, West Virginia.

Q. Does that company buy much pipe?

A. We are from time to time buyers of considerable amounts of pipe and casing; casing is used for casing wells.

Q. It is a pipe product?

A. It is a pipe product.

Q. On the average, Mr. Heard, in recent years, what tonnage of tubular products have you bought?

A. In the last nine years we have bought on an average of a little over two thousand tons per year.

Q. Were you buying pipe prior to the last nine years?

A. Yes, sir.

Q. Have you been familiar with the purchases during the whole time of your presidency of the company?

A. Yes, sir.

Q. That is, from 1896 down to the present time?

A. Yes, sir; and even prior to that.

Q. Do you buy in lots, or do you buy on long time contracts, such as annual contracts?

A. We buy in lots altogether. We make no contracts.

Q. In other words, you place your orders as you need the material?

A. We place our orders as we need the goods.

Q. Is there competition for your business?

A. Yes, sir.

Q. Is the competition active or otherwise?

A. Quite active.

Q. How long has that been so, Mr. Heard?

A. It has been so ever since I have been in the business.

Q. Is it so to-day?

A. It is to-day, as active as ever.

Q. Do you ask competitive quotations from the different makers?

A. Usually; except where we want to buy casing, and in such cases we usually try to get the same kind of casing that heretofore has gone to the same district.

Q. What is the reason for that?

A. The reason for that is this: That each maker, of course, has his own threading machines, and the pipe from one mill sometimes will not fit with the pipe from another mill. Therefore it is an advantage as to casing to have the same kind of casing go into a certain district.

Q. Other things being equal, you try to patronize the manufacturer who supplies the casing for the particular district for which you are making the new purchase?

A. That is the idea.

Q. When you are asking competitive quotations, what companies do you invite to quote to you?

A. Presently we invite quotations from the Wheeling Steel & Iron Company, the National Tube Works, the Reading Works——

Q. The Reading Iron Company?

A. Yes; through the Oil Well Supply Company. They are the selling agents for the Reading Steel & Iron Company.

Q. That is, they are the Pittsburgh distributors for them?

A. They are the Pittsburgh distributors for that mill. Then we ask quotations from the Youngstown Sheet & Tube Company.

Q. Do you ever get quotations from South Chester?

A. Yes; and we have been considerable buyers from those people in the last ten or twelve years.

Q. How about La Belle?

A. We have never done anything with the La Belle people.

Q. Have they tried to get your specifications?

A. Yes; pretty strenuously.

Q. They have wanted to get into the bidding, have they?

A. Oh, yes.

Q. Mr. Heard, what percentage of pipes that you buy is steel pipe and what percentage is iron pipe?

A. Presently it is practically all steel pipe. The Chester Mill are making iron casing, but steel is persistently displacing iron for pipe and casing.

MR. DICKINSON: While you are on that, Mr. Reed, it will save us a little time later on, perhaps, if you ask him to go back a little. He said "presently." Would you take that back a little, so as to get some figures on it?

By MR. REED:

Q. What has been the history of your buying from that standpoint, Mr. Heard, that is, as to the relation of the use of iron and steel pipe?

A. Well, until about two years ago I still tried to get iron casing from the Chester mill, and from the Reading mill, but I have practically given that up now and gone to steel casing.

Q. Are steel and iron casing competitive between each other? Do the makers of iron casing compete with the makers of steel casing?

A. I do not believe I exactly understand that question.

Q. They are used for the same purpose, are they?

A. They are used for the same purpose.

Q. Is there a very wide difference in the price of the two?

A. Yes, there is a considerable difference.

Q. Iron costs more?

A. About ten per cent. more.

Q. Are there not still men rather eminent in the natural gas business who prefer iron casing?

A. Yes, a great many operators still stick to it that they must have iron casing for wells. I do not share in that belief any more, because I have had steel casing in a few places in wells reaching seven or eight years back now, and we find that it stands up just as well as the iron casing, so-called, and we have absolutely no assurance that we get iron casing when we buy it. There is a change in the manufacture that has been going on for the last fifteen years; there has been a change in the manner of puddling, and the buyers of casing now have not that confidence in puddling that they formerly had, and therefore they are gradually coming over to steel casing and to the open hearth variety.

Q. I want to ask you about the quotations that you get on pipe, quotations that you are getting at the present time. Do those quotations that you get from the different mills in reply to a particular inquiry vary in price or are they uniform?

A. They always vary; I cannot recall a harmony of quotations in several years.

Q. How long has that been so?

A. It has been so ever since I have been in the business, and I know it is so with reference to the last eight or ten years. Of course I have been in the business a good while, and I cannot remember back to the beginning.

Q. You are confident of that for eight or ten years?

A. Oh, yes, I am certain of that with reference to pipe and casing.

Q. Has there been any indication of combination among these manufacturers to fix the price?

A. None whatever.

Q. You say you are in the oil business as well as the gas business?

A. Yes.

Q. I suppose it is pretty hard for a man who starts to drill a well to tell what is in it until the well comes in?

A. That is about it, Mr. Reed.

Q. Has the large size of the National Tube Company been of benefit either to it or to the oil and gas operators, and has

its ownership of a number of plants and its possession of a large capacity been of importance to the oil and gas operators generally?

MR. DICKINSON: That is objected to on the ground that the witness has not qualified himself as an expert to express an opinion on that subject, and besides, his opinion may be based upon facts that he may estimate in his own mind, and it is not shown upon what basis he proceeds, and therefore it is incompetent and irrelevant.

THE WITNESS: We regard it as advantageous.

MR. DICKINSON: The question was you, not "we." Are you speaking for anybody else?

THE WITNESS: I regard it as advantageous to the oil and gas business for this reason: the oil and gas business is a rapidly expanding business, requiring new character of manufacture, heavier or larger pipe, as the case may be, and therefore I look upon a large concern, well sustained, as an advantage, because they more readily adapt themselves to new needs than a smaller concern would.

By MR. REED:

Q. Are the calls on the pipe producers from the oil operators ever sudden and in great volume?

A. Yes, that is characteristic of the business.

Q. Now, why should that be so?

A. It is this way: in searching for oil and gas a new field is found. These operators from everywhere flock to that point, which creates a sudden and large demand for material.

Q. I suppose to avoid loss of oil and gas too, a sudden shipment of pipe is often required?

A. Oh, very often.

Q. How does the present situation in the pipe business compare with the times that have preceded it, from the point of view of the number of makers of the large sizes of pipe that there are? Are there more to-day, or are there fewer than there have been in the past?

A. There has been a great expansion of manufacturing capacity during the last seven or eight years.

Q. Has that been so as to the larger sizes? I am speaking about the larger sizes altogether.

A. I am not sure as to that point, but I think these new mills make up to 12 inches, perhaps to 16 inches, but I am not absolutely sure on that point. The big mills or the lately built, in the last few years, are the La Belle Mill at Steubenville, and the mills at Youngstown. Now, how large pipe they make, I am unable to say.

Q. We have the records of a good many of their bids on the different sizes, so we are pretty well informed as to that.

A. Yes, sir.

MR. REED: I need not ask you about that. Cross examine, Judge.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Heard, this year how much 16-inch pipe did you buy?

A. This year?

Q. Yes.

A. None.

Q. Last year how much did you buy?

A. We have not used any 16-inch pipe in our business at all.

Q. What is the next size below 16-inch?

A. That we use?

Q. Yes.

A. Ten-inch.

Q. Then you have never bought any twelve-inch?

A. Yes, we bought twelve-inch, years ago.

Q. How long ago?

A. I think about 18 years ago they bought 12-inch pipe.

Q. Since the National Tube was formed you have not bought anything larger than ten-inch?

A. No.

Q. And how many concerns in the United States besides the National Tube make twelve-inch?

A. I could not answer that question, but I believe that all

the mills around the Pittsburgh district and the Youngstown district make up as high as twelve-inch.

Q. How many?

A. How many mills?

Q. Yes, how many corporations make 12-inch pipe, that you know of?

A. The Wheeling Steel & Iron make it, the La Belle makes it, and the Youngstown Sheet & Tube; Cambria—no, not Cambria, I don't know about that; Spang, Chalfant & Company, Pittsburgh and the Reading mill.

Q. How long have they been making twelve-inch?

A. I could not answer that.

Q. Well, for a number of years?

A. They have offered us pipe for several years.

Q. Then the National Tube is not the only concern in the United States that makes twelve inch?

A. No, I do not think so.

Q. And there have been others that have been making it for a number of years?

A. I think so.

Q. Well, ten-inch. How many concerns make that?

A. Most any mill of any consequence makes up to ten-inch except the Monongahela Tube Works. I do not think they make any ten-inch pipe.

Q. What particular thing has the National Tube done in respect to the oil business that has been advantageous to them that a number of these others have not been able to do?

A. The exact comparison of their contribution to furnishing goods, of course, I do not know, but I do know this, that the National Tube Works are very energetic in manufacturing goods adaptable to the varying wants of the trade.

Q. Are they the only ones that are energetic in manufacturing goods that are adaptable to the wants of the trade?

A. They are the most energetic I know of.

Q. Are there any others who are energetic and who adapt themselves to the trade?

A. I think they try to to the best of their ability.

Q. Well, do you think they do not succeed?

A. I do not know whether they do or not.

Q. Take your business; have you been relying on the National Tube for the advancement of your business and its success?

A. Not exclusively.

Q. Have you been doing it mainly?

A. I rely on them for special things; for instance, recently I had occasion to buy a string of casing to go into a very deep well, and in consequence of the confidence I had in that concern I bought the string of casing there.

Q. When did you buy that?

A. About six weeks ago.

Q. What was the tonnage?

A. The tonnage was small; I should say about 40 tons.

Q. About 40 tons?

A. Yes, sir.

Q. What was the size?

A. The size was 6⅝.

Q. How many other people besides the National Tube make that size?

A. I do not know; 6⅝-inch casing?

Q. Yes.

A. They all make 6⅝-inch casing.

Q. Is that the only one that could furnish you that at that time?

A. It is the only concern that could furnish me or that I had confidence in possessing a knowledge of what was wanted in that case.

Q. What was wanted in that case that made it special and different from other cases?

A. It required a knowledge of what they call stress on the collars; that is, as the casing is lowered in the well.

Q. Stress. That means power of resistance, does it, or rather the strength that resists the stress, is it?

A. It means the power of the couplings to hold the casing together as it is lowered into the well.

Q. The stress is really the strain?

A. Yes; I presume so.

Q. And the power of resistance is what you wanted to maintain that stress, was it not?

A. Yes.

Q. Do not other people manufacture casing to resist the stress that may come on that size of pipe?

A. They try to and may succeed for anything I know.

Q. Was that the only time that you got that kind of casing?

A. The only time.

Q. And what was there, now, in that different from all the other kinds that you had obtained; just in what particular did it differ?

A. The main difference was in the length of the string of casing, some 4,500 feet to go into a well.

Q. It was in parts, wasn't it, in joints?

A. It comes in joints.

Q. How long were they?

A. They average about 19 or 20 feet.

Q. Did nobody else make pipe averaging 19 or 20 feet except the National Tube Works?

A. Yes, any number of them.

Q. Then it was joined by couplers, wasn't it?

A. Yes, sir.

Q. Was there anything special about those couplers in that particular pipe that made it different from others?

A. Only as to the length of them.

Q. The length of the couplers?

A. And the size.

Q. How long were they; were they over three inches long?

A. Yes, sir.

Q. How many inches?

A. About eight inches.

Q. The couplers were eight inches long?

A. I think so.

Q. Do other people make couplers that long except the National Tube Works?

A. I have no doubt they do.

Q. When you made that contract you seemed to be especially influenced by your confidence in them?

A. Yes, sir.

Q. Did you take any bids from anyone else?

A. No, not on that string of casing.

Q. That was not bought on a bid?

A. That string of casing was not bought on a bid.

Q. What other circumstance or fact can you give that has made the National Tube specially advantageous to you for your business, in the oil well business?

A. Their long experience in the business and the manner and way they carry on their operations.

Q. What percentage have you been buying from them since 1901?

A. I went over our accounts in 1904 and from that time up to the present time I found that we have bought one-third of our tonnage from the National Tube Works.

Q. Then there were other people who were able to furnish two-thirds of whatever advantage there may have been in promoting your line of business, were there?

A. Yes; in some character of pipe and casing we rely upon other makers as much as we do upon the National Tube, but in other respects we do not.

Q. Is the fact that these people have ability to produce that pipe—an advantage to the oil well business?

A. That is an advantage.

Q. Then the National Tube does not enjoy a monopoly of this advantage, does it, to the oil well business?

A. I do not know that they do, but I have more confidence in certain lines of goods of the National Tube Company than I have in others, as we all have in business; we have more confidence in one concern than in another.

Q. What lines are there that you have special confidence in them over others; just state what they are?

A. In respect to their care in the manufacture of casings.

Q. How much of your casing; what percentage of your casing did you buy from them in 1913?

A. We bought a very little from the National Tube Works in 1913, very little.

Q. Well, in 1912 what percentage of your casing did you buy from them?

A. It was small, because it was hard to get casing from them; they would not quote.

Q. In 1911 what percentage of your casing did you buy from them?

A. I could not go back to that. I do not remember.

Q. Can you give it for any year back to 1900?

A. I cannot segregate our purchases.

Q. So you do not know, then, what proportion of this casing in respect to which they offered special, peculiar advantages that you got in any year from the National Tube; is that so?

A. No, sir; I cannot say that.

Q. What can you say about it, then?

A. As to the casing that is used in certain sections of the country, most any kind of casing will do, but the special casing that I referred to a moment ago is casing that is now being bought to case very deep wells with.

Q. How long has that been made, this special casing that you have in mind?

A. The deep wells, the commencement of the drilling of deep wells started about three years ago.

Q. So this special casing, then, that you refer to in respect to which the National Tube Company offers superior advantages, you have been getting within three years; is that so?

A. Yes, sir.

Q. What other fact or circumstance in connection with the National Tube has made its influence upon the oil well business more beneficial, if it has been so, than other people in that line of business?

A. The National Tube Works, the works at McKeesport, has always been one of the leading pipe mills in the country and noted for the excellence of its manufacture.

Q. Are there other pipe mills in the country that are able to compete with them?

A. Yes; they compete with them.

Q. And they are not the only persons, then, that are reliable and can furnish what people in your line of business want?

A. No; I would not say that there are no other concerns except the National Tube Works that are reliable; of course there are others that are reliable.

Q. I would like you to state now just what it is or has been about the National Tube Works that has made their effect upon the people in your line of business so beneficial as compared with others, if it has been superior. Just state the facts and circumstances.

A. The National Tube Works from the very beginning appeared to have confidence in the growth of the oil and gas business and were always well forward in the manufacturing and building of new mills and adapting themselves to new demands; they were quicker to respond to that than any other mill that I know of.

Q. Is it not a fact that at the time of the formation of the National Tube Works it had from 80 to 90 per cent. of the concerns in the United States at that time making tube?

A. I do not know as to that.

Q. Did you buy tubes before the formation of the National Tube Company?

A. Oh, yes.

Q. Do you know what concerns went into it?

A. I don't know all of them.

Q. Don't you know that the larger number of concerns that you had been buying from went into the National Tube Company?

A. I used to buy of the Pennsylvania Tube Works, and I believe they went in, and the Riverside Iron Works at Wheeling, and they went in.

Q. Who else did you buy from?

A. At that time, along back in those former years, I bought from this Chester mill and the Reading mill.

Q. Name the makers of steel tube from which you bought the year prior to the formation of the National Tube Company which did not go in under the National Tube Company.

A. That question is framed so that it is difficult for me to answer, because I do not know what they all made; but I bought from the Chester mill and the Reading mill previous to the formation of the Steel Corporation.

Q. Did you buy any steel at that time from the Chester?

A. I don't think so. I think they always pretended to make iron.

Q. What about the Reading? Did you buy steel from them?

A. Away back at that time we bought but little steel from anybody.

Q. Did you ever buy from the American Tube & Iron Company?

A. That was the Youngstown mill, I believe. Yes, we bought from them.

Q. Did you buy from the Chester Pipe & Tube Company?

A. Yes; that is what we call the Chester mill.

Q. Did you buy from the Cohoes Tube Works?

A. No.

Q. Did you buy from the Delaware Iron Company?

A. No.

Q. From the National Galvanizing Works?

A. I don't know that concern.

Q. From the Ohio Tube Company?

A. No.

Q. From the Oil Well Supply Company?

A. I bought from them, yes. They are merchants.

Q. Did you buy from the Pennsylvania Tube Company?

A. Yes; we bought from them.

Q. From the Riverside Iron Works?

A. Yes; we bought from them.

Q. From the Oil City Tube Company?

A. I don't think I bought any from them

Q. From the Syracuse Tube Company?

A. No.

Q. From the National Tube Works Company?

A. You are including that in the list I bought of prior to 1900?

Q. Those that you bought from the year next preceding the formation of the National Tube Company, which was in February, 1899.

A. Well, you want to know the people that we bought of

prior to 1900 which did not ultimately go into the Steel Corporation? Is that the idea?

Q. No; the question I asked you was—I will put it this way, so that you will not confuse yourself trying to remember what I have asked you.

What concerns from which you bought tube in 1898 did not go into the National Tube Company when it was formed in 1899?

A. The Chester mill, the Reading mill, the Monongahela Tube Works.

Q. Do you mean by the Chester mill the Chester Pipe & Tube Company?

A. I believe that is the correct name of the company.

Q. Don't you know that that company went into the National Tube Company and has been in it ever since?

A. There is a mill called the Chester mill that pretends not to be in it. I don't know where they are.

MR. REED: Is that the South Chester mill?

THE WITNESS: I mean the South Chester mill.

By MR. DICKINSON:

Q. Did you buy from the Chester Pipe & Tube Company?

A. When I speak of the Chester, I am referring always to the South Chester.

Q. Did you buy from the Chester Pipe and Tube Company?

A. South Chester.

Q. Just answer whether you did or did not buy from the Chester Pipe & Tube Company?

A. Are there two mills down there?

Q. I don't know.

A. Nor I.

Q. You do not know whether you have bought from the Chester Pipe & Tube Company or not?

A. I bought from the South Chester. We have bought from them for a long time, until recently.

Q. Don't you know that the National Tube Works was in existence before the National Tube Company was formed?

A. You are referring to the McKeesport mill, I presume?

Q. Yes.

A. Yes; that is a very old mill.

Q. Was that the one that was of such benefit to the oil well business?

A. When I speak of the mill being beneficial to the business generally, I refer to the big mills at McKeesport.

Q. How long has that been so, that it has been beneficial?

A. They have always been a very forward concern in the tube business.

Q. Even before the formation of the National Tube Company?

A. Even before the formation of the National Tube Company; and still are so.

Q. Do you know how many other concerns went into the National Tube Company that were practically the same size as the National Tube Works Company?

A. No; I never gave the matter any thought. I don't know.

Q. In 1901 what proportion of your purchases were steel and what iron, in tubes and casing?

A. I could not give you the exact proportion, excepting to state generally that we were still adhering at that time to iron casing.

Q. But you bought pipe as well as casing, did you not?

A. And we bought iron pipe still; iron for pipe line purposes.

Q. I do not like to take up so much time. Can you tell me, for 1901, approximately what percentage was in steel and what in iron?

A. I should say about half of our purchases at that time were iron.

Q. Well, how much did you buy at that time in tube and casing?

A. What year?

Q. 1901.

A. I could not answer that without making an investigation.

Q. In 1902 how much did you buy in tube and casing, and what proportion was steel?

A. I could not answer that; I have not gone into the records.

Q. In 1903, can you answer?

A. I started in 1904 to find out how much——

Q. Well——

MR. REED: Let him finish.

MR. DICKINSON: I asked him about 1903 and he replied as to 1904.

THE WITNESS: I would like to say, Judge Dickinson, that I am trying to enlighten you as much as I can. I went back as far as 1904 to find out how much pipe and casing we bought in tonnage.

By MR. DICKINSON:

Q. I do not care how far you went back; I am simply asking you if you know, in 1903, what tonnage you bought of these iron and steel products, and what proportion was steel.

A. I could not tell you.

Q. In 1904 what tonnage did you buy, and what proportion was iron and what proportion was steel?

A. Now, at that time, as I told you, we made an investigation——

Q. (Interposing) Can't you answer that?

MR. REED: Please let him finish some answer. You must trust something to the witness' intelligence, and if his first words do not seem to be a sufficient answer, let him finish.

MR. DICKINSON: The only thing is that you complain of the length of the cross examination, and it is the length of the answers that are not relevant that takes up the time. I do not care; I am willing to let him go on.

MR. REED: Do you think it abbreviates time to interrupt every answer?

MR. DICKINSON: Maybe it does not.

THE WITNESS: No man can answer out of his own mind——

MR. DICKINSON: Read the question, and you can run along as long as you want to.

(The question was repeated by the stenographer.)

THE WITNESS: I can not tell you.

By MR. DICKINSON:

Q. In 1905?

A. I have made no investigation on these points at all.

Q. Can you not as to any year——

A. I have told you I have taken the total tonnage that we bought for nine years.

Q. You are interrupting me now. I hadn't finished. Can you not answer as to any year since 1905, give the total tonnage and the proportion of iron and the proportion of steel?

A. I can not give it to you with reference to any single year.

Q. In 1904 do you know from whom you made your purchases?

A. In that particular year, no.

Q. Do you know from whom you got quotations?

A. No, I could not answer accurately.

Q. Do you know what they were?

A. The prices?

Q. Yes.

A. I can not quote you the prices.

Q. Have you any recollection about that at all?

A. That is a good while ago; no, I have no recollection. I would have to make a long investigation to answer these questions.

Q. How about 1905?

A. The same answer will apply to that.

Q. How about 1906?

A. On down to the present time.

Q. Now, do you know what company you gave your largest tonnage to in 1904?

A. I think—I am not certain—that we gave our largest tonnage that year to the Monongahela Tube Works.

Q. In 1905?

A. No; when we commenced to buy steel pipe I think a

good many of our orders went to the National Tube Company.

Q. In 1905?

A. In 1905.

Q. Do you know what percentage?

A. No, I could not give you the percentage.

Q. In 1906 where did the bulk of that go?

A. I could not answer as to that.

Q. Could you as to any year down to and including 1910?

A. No; not anticipating this line of inquiry, I have not posted myself on that, because it is a long history.

Q. Now, you stated that you could not recall a harmony of quotations in several years. What did you mean by "a harmony of quotations"?

A. The same quotations from various people.

Q. You mean you can not recall an instance in which all the quotations upon any one purchase were identical?

A. I can not recall any such.

Q. Do you recall the quotations on any purchase?

A. We have had quotations on casing and pipe that were almost the same, but never the same.

Q. Now, can you recall the quotations on any transaction, and what they were over any of this period?

A. As to pipe or casing?

Q. Well, either one, and what the quotations were.

A. I remember generally that in inviting bids or offers on casing and pipe, that we have found no similarity of quotation at all for several years.

Q. Now, you said "several years." How far back would that go?

A. It would go back ten years or twelve years.

Q. Well, was it ten or twelve years? Do you remember which?

A. Ever since I have been in the business. We have always had an open market for pipe and casing ever since I have been in business; absolutely an open market.

Q. What do you mean by an "open market"?

A. A market where we had several people that we could buy the same thing of.

Q. Is that what you mean by an "open market"?

A. I should say that was an open market to the buyer.

Q. And that is what you meant in the use of the expression "open market" in your preceding answer?

A. I think so.

Q. Can you name any company from which you bought steel piping or casing in 1901, outside of the National Tube Company?

A. I can not recall.

Q. Can you name any for 1902, 1903, 1904 or 1905?

A. No; my memory does not hold points like that, running so far back.

Q. Well, now, in 1901, can you name any concern that was making steel pipe other than the National Tube Company?

A. I think Spang-Chalfant were making it, but I am not sure as to that point.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Let me see if I can revive your memory on that, Mr. Heard? I am speaking now of the year 1901.

A. Yes, sir.

Q. I want to ask you whether you know of any of the following companies making steel pipe in 1901: the Aermotor Company, Carnegie Tube Company, the Crane Company, the Harrisburg Pipe and Pipe Bending Company, the La Belle Iron Works, the Mark Manufacturing Company of Evanston, Illinois, or the Mark Manufacturing Company of Zanesville, Ohio; Spang, Chalfant & Company, Tyler Tube & Pipe Company, and the Youngstown Sheet & Tube Company?

A. Well, at that time, of course, I was not interested in the pipe business at all, except what I wanted to buy of it. What all those concerns were doing at that time, of course, I don't know; I don't know what they were doing. I know generally that the manufacture of steel pipe commenced about

1897 or 1898; it commenced in Wheeling and commenced in Pittsburgh. The trade was very slow to take it, very slow, indeed, to take it.

Q. You can make either iron or steel pipe in the same pipe furnaces, can't you, depending on the kind of skelp you use?

A. Yes, sir; you can.

DILLWORTH B. McCLELLAND

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Pittsburgh.

Q. What is your occupation?

A. I am vice-president and treasurer of Spang, Chalfant & Company.

Q. How long have you been vice-president and treasurer of that company?

A. Since January 15th, 1906.

Q. And prior to January 15th, 1906, what was your position in the company?

A. I was the manager of sales beginning with January 14th, 1904.

Q. Prior to that you had been with another company, had you?

A. Yes, sir.

Q. You began your connection with Spang, Chalfant & Company in January, 1904?

A. Yes, sir.

Q. With what title?

A. General manager of sales.

Q. And you have been with the same company continuously since January, 1904?

A. Yes, sir.

Q. Since you became vice-president and treasurer in January, 1906, have you been familiar with its sales policies and its sales practices as well?

A. Yes, sir.

Q. You have had charge of the sales department continuously, have you?

A. Yes, sir.

Q. As vice-president?

A. Yes, sir.

Q. Spang, Chalfant & Company make pipe, don't they?

A. Yes, sir.

Q. Of all kinds, I mean, of both iron and steel?

A. Yes, sir.

Q. How many pipe furnaces have you?

A. Seven.

Q. How many had you when you went with the company in January, 1904?

A. Seven.

Q. Is the productive capacity of the company the same to-day as it was then?

A. No, sir.

Q. Is it larger or smaller?

A. Larger.

Q. How can that be, Mr. McClelland, if you have the same number of pipe furnaces?

A. Due to increased efficiency and improvements.

Q. About what tonnage were you producing in 1904?

A. About 65,000 tons.

Q. About what tonnage are you producing now?

A. About 150,000 tons.

Q. Does your company make its own iron skelp?

A. Some of it.

Q. You make some and buy some, do you?

A. Yes, sir.

Q. How many puddling furnaces have you?

A. I am not quite sure, but I think twenty-eight.

Q. Do you make your own steel billets?

A. No.

Q. Do you make your own steel skelp?

A. Some of it.

Q. You buy some billets?

A. Yes, sir.

Q. And roll them into skelp?

A. Yes, sir.

Q. And you buy some skelp already rolled, is that the way you do?

A. Yes, sir.

Q. That is so both with iron and with steel?

A. Yes, sir.

Q. You scarf all your own skelp?

A. Yes.

Q. For your lap-weld tube?

A. Yes.

Q. Do you make butt-weld tube?

A. Yes, sir.

Q. How many furnaces have you?

A. Two.

Q. Are they pretty good furnaces?

A. Considered pretty good.

Q. How about your lap-weld furnaces; are they in good condition?

A. Yes, sir.

Q. Of high efficiency?

A. High efficiency.

Q. Does this diversification of products that you get by making both lap and butt weld tubing in both iron and steel give you any advantage in sales?

A. I think so.

Q. For what reason?

A. Because we make larger sizes of iron pipe than any mill in the country.

Q. What sizes of pipe do you make, Mr. McClelland?

A. From ⅛ inch to 24 inches.

Q. In both iron and steel?

A. Yes, sir; to be exact I should say that 24 inches is outside diameter and ⅛ of an inch is inside diameter.

Q. What would be the inside diameter of 24-inch pipe?

A. That would depend entirely upon the thickness of the plate from which it is made.

Q. It would be nearly 24 inches, wouldn't it?

A. Yes; if it was one-half inch thick it would be 23 inches inside.

Q. From what companies do you buy your steel billets?

A. We buy from the Wheeling Steel & Iron Company, Youngstown Sheet & Tube Company, Republic Iron & Steel Company, Cambria Steel Company, Standard Steel Car Company, at Butler.

Q. Do they operate open hearth furnaces now?

A. Yes, sir.

Q. How long have they been doing so?

A. I cannot tell you; we bought last summer from them.

Q. Do Jones & Laughlin ever sell any?

A. Jones & Laughlin, yes.

Q. Carnegie?

A. Carnegie Steel Company; that is all I recall.

Q. From which companies do you buy iron skelp?

A. Moorhead Brothers & Company and Glasgow Iron Company.

Q. From what companies do you buy steel skelp?

A. Wheeling, Republic, Youngstown Sheet & Tube, Carnegie, Jones & Laughlin. There is one other I have forgotten.

Q. Cambria?

A. No, we are not buying from Cambria now.

Q. Have you at times?

A. Yes, sir.

Q. Before you place orders or let contracts for billets or skelp, Mr. McClelland, do you get competitive quotations from different makers?

A. We usually do.

Q. Do you find variations in the quotations that are given you?

A. Yes, sir.

Q. Is there active competition for your business?

A. Yes, sir.

Q. How long has that been so?

A. Since I have had charge of these purchases in 1906, when I became vice president.

Q. You have had charge of the purchases since you became vice president, have you?

A. Yes, sir.

Q. And your familiarity with purchases dates from that time?

A. Yes, sir.

Q. Now, about what percentage of your skelp are you equipped to roll for yourself?

A. I should say about 35 per cent.

Q. That is your pipe capacity is bigger than your rolling mill capacity?

A. Yes, sir.

Q. Mr. McClelland, have you any competition in the sale of pipe?

A. Yes, sir.

Q. Is that true both as to iron and steel pipe?

A. Yes.

Q. Is the competition that you have active or otherwise?

A. Yes; very active.

Q. Is that true of both iron and steel?

A. Yes.

Q. Are the two products to some extent competitive with each other; that is, iron and steel pipe are used for the same purpose?

A. Yes.

Q. Is there any competition, then, between the makers of iron pipe and the makers of steel pipe?

A. Yes.

Q. Is that competition with your steel pipe and competition with your iron pipe limited in any way by agreements among the producers?

A. No.

Q. Have you any agreements with your competitors fixing the prices at which you sell?

A. No.

Q. Have you had?

A. No.

Q. Since you became connected with the sales department?

A. We have had no such agreement.

Q. Has there been any such agreement limiting the percentage of the country's consumption that you would supply?

A. No.

Q. Or limiting your output in any way?

A. No.

Q. Who has charge of the making of prices for your company?

A. I, principally. I always confer with my president.

Q. Have you discretion as to the making of prices?

A. It is largely in my discretion.

Q. How long has that been so?

A. Since I have been the vice-president.

Q. During that time have the prices that you have quoted on your products been controlled by anything other than the needs of the situation?

A. The needs of our company.

Q. That is what I mean.

A. They have not.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You had nothing to do with the question of prices prior to January 15, 1906?

A. I was the general manager of sales.

Q. I mean, as to the fixing of prices?

A. Not absolutely.

Q. You say you confer with the president, and that you have a large discretion. Have you the absolute power to fix the price at which the products of your company are sold?

A. Only in the absence of the president.

Q. And while he is there he has the power, has he not?

A. We confer together.

Q. But he has the power, has he not?

A. He has the power.

Q. You say that there was no agreement with competitors

of your company limiting the price, or percentage of output. Do you mean to say that you know of no such agreement?

A. I know of no such agreement.

Q. You do not mean to say that you know there is no such agreement?

A. I do.

Q. Do you know all that your president has done in that matter?

A. I think the president would tell me if he had done anything.

Q. Then, because you think he would tell you, you say you know; is that it?

A. Yes; that is the reason I say I know.

Q. And that is the only reason you say you know?

A. That is the only reason.

Q. Have you ever attended any meetings at any time since 1906 at which were present representatives of other makers of tubes beside your company?

A. Yes, sir.

Q. When did you attend the last meeting?

A. I don't recall. It has been so long ago.

Q. When did you attend the first meeting?

A. I cannot tell you any dates. Along in 1908 we had several meetings. I cannot tell you the number of them.

Q. In 1908?

A. Yes, sir.

Q. Is that the only time you remember where you were present?

A. I am not sure of the other years. We had quite a number of meetings in 1908, I am sure.

Q. That is to say, you are sure there were some meetings in 1908 that you attended?

A. Yes.

Q. You are not sure that there may not have been other years at which you attended?

A. There have been other years, but I am not sure of the years.

Q. Do you know that there have not been any meetings

when your company was represented by somebody other than yourself?

A. No, sir; I do not.

Q. Have you any knowledge of a sales agreement at any time between the National Tube Company and independent tube manufacturers?

A. No, sir.

Q. You have no knowledge of any understanding or anything of that character in any way, shape or form at any time?

A. No, sir.

Q. Did you attend the meetings in 1906 over which Mr. Converse presided?

A. No, sir.

Q. Did you attend any meetings where he presided?

A. No, sir.

Q. What is the output of your company as compared with that of the National Tube Company?

A. I am not just sure as to the National Tube Company, but I think about ten per cent. would be about right, from the records I have read of the National Tube Company, reports as to their furnace capacity.

Q. That is, it is about ten times larger than your company?

A. About; yes, sir.

Q. What is the next largest company to the National Tube Company?

A. I would rate the Youngstown Sheet & Tube Company next.

Q. What is their percentage as compared with that of the National Tube Company?

A. I cannot tell you. I only judge from the number of furnaces they have.

Q. Well, judging from that?

A. It would be conjecture on my part. I don't know the capacity of their furnaces.

Q. Now, from whom did your company buy steel billets in 1906?

A. Well, from all or some of that list I have quoted; I cannot tell exactly.

Q. How much skelp did you get from Carnegie in 1906?

A. I cannot tell you.

Q. What percentage of your requirements?

A. I can't tell you.

Q. Didn't you buy over half of your requirements from them?

A. In 1906?

Q. Yes.

A. I don't think so; but I could not tell you.

Q. You cannot tell me? How about 1907?

A. I cannot tell you that.

Q. Do you know from whom you bought in 1908 in skelp and billets, and what percentage you bought?

A. It would be impossible.

Q. Couldn't you approximate it?

A. No, sir.

Q. What is the first year back of 1912 where you can answer these questions?

A. I cannot answer any of these questions exactly without record.

Q. I do not say exactly; can you approximate it?

A. Well, I could go back to 1911; I presume we bought about half of our material from Carnegie, and the balance was divided.

Q. In 1912 what did you buy of that material from Carnegie?

A. Well, I should say 60 to 75 per cent.

Q. In 1913 how much?

A. About the same.

Q. Well, now, if you take your requirements in steel, and exclude iron?

A. I am talking about steel entirely.

Q. That is what you are talking about?

A. Yes.

Q. And your answers have been referring to steel and percentages referring to steel?

A. Yes.

Q. You spoke of 24-inch pipe; is that iron or steel?

A. We make it of both.

Q. How many concerns make 24-inch steel?

A. The National Tube Company is the only one.

Q. They are the only ones that make it in the United States?

A. They are the only one besides ourselves that make above 20 inches.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. I neglected to ask you to what districts you sell your products?

A. Through what districts?

Q. Yes; over what territory do you sell?

A. All over the United States.

DAVIS N. GLASS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Ingram, a suburb of Pittsburgh.

Q. What is your occupation?

A. Purchasing agent for Booth & Flinn, and the William Flinn interests.

Q. That includes a number of different companies in which Mr. William Flinn is interested?

A. Yes.

Q. How long have you been purchasing agent for Booth & Flinn and these other companies?

A. About twenty-three years.

Q. In these different companies that you are acting for do you have occasion to buy any steel materials?

A. Yes.

Q. Do you buy pipe?

A. Yes.

Q. How long have you been buying pipe?

A. Twenty-three years.

Q. How many tons of pipe do you buy in the course of a year?

A. Well, our business is principally contracting, and in the contracting business some years you have a considerable quantity to buy, where in other years you have very little. In 1910 we purchased over $1,500,000 worth of pipe.

Q. Can you give us the ranges?

A. Yes; if you would allow me to refer to some papers I have with me I can do it.

Q. Without doing that can you give us the maximum and minimum tonnages?

A. Well, in dollars I could give it to you better than in tonnage; I haven't looked up the tonnage, but in dollars it would run from $10,000 up to perhaps $1,800,000.

Q. So that it is pretty widely varying from time to time?

A. Yes.

Q. Do you buy sheets?

A. Yes.

Q. Of what kind?

A. Well, we buy light and heavy sheets, we buy corrugated and plain sheets, galvanized and black.

Q. Do you buy bars?

A. Yes.

Q. What kind?

A. Well, we buy squares and rounds and square twisted.

Q. The twisted are for concrete reinforcement, are they?

A. Yes.

Q. Do you buy bars for other purposes, blacksmithing and that kind of thing?

A. You mean in tool steel?

Q. No, I mean steel.

A. Oh, yes, we use some blacksmith iron and steel, but when we go to blacksmithing we usually try the iron in preference to steel.

Q. Your principal bar purchases are for concrete reinforcement, I suppose?

A. Yes.

Q. Do you buy plates?

A. Yes.

Q. Have you any idea of the quantity of plates?

A. Well, this year we have a contract for 150,000 plates that weigh 20 pounds apiece. Of course we have other requisitions that come in at various times that we buy just as we require; that would run perhaps three or four thousand tons in addition to the larger contract.

Q. Do you buy structural shapes?

A. Yes.

Q. Fabricated and unfabricated?

A. Yes.

Q. Can you give us any idea of the aggregate tonnage of steel that you buy in the course of a year in all varieties?

A. No.

Q. Let us go back to pipe again, steel pipe; do you buy iron pipe too?

A. Yes.

Q. Do you buy iron pipe sometimes for the same uses that you might buy steel pipe?

A. Yes.

Q. I mean, the two products are in competition, are they?

A. Yes; we discourage—that is, I discourage the purchase of iron as much as possible, and we have purchased very little iron, that is very little iron pipe.

Q. What is your objection to it?

A. Price, principally.

Q. It usually costs a little more?

A. Yes; it always costs more.

Q. From what companies do you get quotations on pipe?

A. The Youngstown Sheet & Tube, the National Tube, the La Belle Steel, the South Chester Tube, the Wheeling Iron & Steel, and occasionally the Reading, but not very often; we

have only perhaps once or twice gotten them from the Reading.

Q. And Spang, Chalfant & Company?

A. Yes, sir.

Q. And Byers?

A. Yes.

Q. And the Republic?

A. The Republic Iron & Steel Company, yes, and the Mark Manufacturing. We have not gotten prices from them, but we have paid for a considerable quantity of pipe.

Q. That came from them?

A. That came from them, yes.

Q. Do you get quotations from these different producers before you let your order for pipe?

A. Yes; we buy in competition.

Q. How do you find the competition in pipe, active or otherwise?

A. The competition is active.

Q. You are satisfied of that, are you?

A. Yes; I am satisfied of it. One man very often will compete with himself.

Q. Do the quotations that you get vary on pipe?

A. Oh, yes; they vary considerably.

Q. How long has that been so?

A. Well, I never knew them anything else. I have been buying for 23 years, and I have always found them varying.

Q. We do not care much what they did twenty-three years ago. You have had some pretty big contracts, I suppose, in pipe?

A. Yes.

Q. What is the biggest job of pipe laying your company has had?

A. The largest was the Arkansas Natural Gas Company. It began near Lewis and Vivian, Louisiana, and ran up to Little Rock, Arkansas, and there were some side lines over to Hot Springs and Pine Bluff.

Q. Have you any idea of the tonnage that was used there?

A. No; I haven't any idea of the tonnage, but I know that in money it exceeded a million and a half for that line.

Q. That is the cost of pipe alone?

A. The cost of the pipe alone, oh, yes, not the laying.

Q. Not the contract price?

A. No.

Q. Who supplied that pipe?

A. The National Tube supplied a large percentage of the pipe. While we were working on the contract there were additions made to the contract; the Youngstown Sheet & Tube Company furnished part of that pipe, and we laid that pipe.

Q. Did you see the quotations that were made on that pipe?

A. We had quotations at the same time from pipe concerns on the pipe, and we would not buy that pipe because we could not get any better quotations than the Youngstown Sheet & Tube Co[illegible]any got, and we bought——

Q. You say than the Youngstown Sheet & Tube Company got; did you mean gave?

A. They gave us quotations along with others that had quoted on the pipe, but you could not get any better prices from any of the manufacturers than the Youngstown Sheet & Tube Company had given to the Arkansas Natural Gas Company, and therefore we told them to buy their own pipe and we would lay it on our contract price for laying.

Q. So that the purchase in the end was made by the gas company and not by you?

A. That is, the purchase of the Youngstown Sheet & Tube Company pipe; the National Tube Company pipe was purchased by us.

Q. You do not mean that there were no other quotations than the National Tube's on the first part of that Arkansas line?

A. No, we had quotations from a number of firms on parts of it, because we could not get quotations from all those firms I mentioned, because there was some 18-inch pipe in it, and they did not all make 18-inch pipe.

Q. But you took bids in sections, then, did you?

A. We asked them for prices on various pipe required. For instance, there was some pipe there that had a Matheson

joint on it; that was in 16-inch and 18-inch O. D. pipe; that pipe we could only buy from the National Tube.

Q. That Matheson joint is an invention of Mr. Matheson of the National Tube?

A. I don't know who invented it, but I know the National Tube are the only ones that we know that are making that pipe.

Q. Mr. Matheson was vice-president of the National Tube, at one time, wasn't he?

A. I don't know.

Q. And how did the National Tube get that contract?

A. In competition.

Q. Was its bid lower than others?

A. Yes, sir.

MR. DICKINSON: Did you give the year of that?

THE WITNESS: 1910.

By MR. REED:

Q. On this other material, take sheets; what companies have you asked for quotations on sheets, Mr. Glass?

A. The Wheeling Corrugating Company and the Youngstown Sheet & Tube Company; Sheet Metals Company——

Q. Sheet Metal Manufacturing Company?

A. Yes; at Niles, Ohio.

Q. Follansbee?

A. Yes, sir.

Q. De Forest?

A. Yes, sir.

Q. American Sheet & Tin Plate Company?

A. Yes; we used to ask them, but we have not asked them recently.

Q. Why not?

A. We have only bought $15 worth from them since 1901; a little less than $15 worth.

Q. That is about a third of a ton?

A. No, it would not be that much.

Q. How have you found competition in that industry?

MR. DICKINSON: Are you speaking of sheets now?

MR. REED: Yes.

THE WITNESS: Plenty of competition in that.

By MR. REED:

Q. Do the quotations that you get vary?

A. Yes.

Q. Has the American Sheet & Tin Plate Company tried to get more than $15 worth of business from you?

A. Well, yes, they have; I think it was last May we got a contract in Newark for a sewer over there, the Passaic Valley sewer, and there were a number of plates required in it.

Q. Sheets, do you mean?

A. Sheets, about an eighth of an inch thick; I think that is about probably 11 gauge, and I went down there to get prices from them, but the prices were very unsatisfactory, and later when I placed the contract for the plates, we changed the size somewhat, and instead of using plates with angles riveted on, we placed the order for the plates worked under a hydraulic press with the angles in the plates; that is, the corners were punched out and the plate then was as one plate bent at the edges, and it was punched so that we could form it into a tube to protect the sand over the Meadows from falling into our work as we were working in the compressed air; we have about 15 pounds over there.

Q. And did they bid on that contract?

A. Well, I went down to see them, and they asked me if they should quote on it, and I told them it was not necessary.

Q. You have been able to beat their prices right along, have you?

A. I have not been trying them at all, really, in the last few years.

Q. I mean when you were getting prices from them?

A. Oh, yes; when we were getting prices we would ask them, but it was not any use.

Q. You mean it was not any use to ask——

A. It was not any use asking them prices; simply wasting our stationery and time, asking them, because we could not get a satisfactory price from them.

Q. The competitors would always quote lower?

A. I won't say always; there might have been sometimes that somebody might have quoted the same thing; I don't recall now whether they did or not, but it was not a satisfactory place to ask prices.

Q. Now, as to bars and plates and structural shapes, have you found the same conditions?

A. Yes, sir.

Q. Varying quotations?

A. Varying quotations.

Q. How long has that been so?

A. That has always been so.

Q. Competition is keen in those items, too?

A. Yes, sir.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You say your dealings with the American Sheet & Tin Plate Company were not satisfactory?

A. Well, we had so little dealings with them.

Q. They made no effort to get your business, did they?

A. Well, this year in the spring, they would have liked very much to have had the business, but there wasn't a chance in the world of them getting the business. Their prices were not satisfactory, and at the present time some of these same sheets they are making and selling to the Hydraulic Pressed Steel Company of Cleveland; they are making, as I understand, about half of the plates required on our order, and the other half are coming from Youngstown.

Q. That is to say, they are actually making part of what you are using?

A. They are actually making part of what we are using; at least, I have been told so by the Hydraulic Pressed Steel Company.

Q. And it comes through another source to you?

A. It comes through another source to us.

Q. You do not get it direct from them?

A. No, sir.

Q. And prior to this year for a long time they have not made any effort to get your business; is that it?

A. Yes; they have had representatives out to see us, and they could not understand why they could not do business with us.

Q. The reason was they did not bid low enough?

A. That was the only reason.

Q. If they had bid low enough, they could have got the business?

A. Yes; we have not anything against the company.

Q. They have not tried in the way of low competitive bidding to get your business?

A. No, sir.

Q. How long has that been back of this spring?

A. It has always been that way; I would not call $15 worth an amount worth anything.

Q. In the year 1901 what percentage of your steel purchases were bought from the subsidiaries of the United States Steel Corporation?

A. If you will allow me to refer to some papers I have with me, I might be able to answer that question.

Q. Don't you carry in your mind anything about that?

A. No. In 1901?

Q. Yes.

A. No. I have had some other things in my head since then, and they have forced this out.

Q. Do you know anything about the prices quoted in 1901?

A. No, sir.

Q. Have you got other things in your head besides the prices of 1901? You have, haven't you?

A. Yes, sir.

Q. Can you give anything about the relation of prices that were quoted at that time?

A. I know there was a variety of prices at all times.

Q. A variety of prices?

A. Yes, sir.

Q. Was there not some similarity in prices at all times?

A. Not at all times, no; but there have been times when perhaps two or three out of five or six firms quoting, would quote the same price.

Q. You say there might be?

A. There will be two or three of them.

Q. That do quote the same price?

A. Absolutely the same.

Q. And that has occurred throughout this period of ten or twelve years, hasn't it?

A. I cannot say that; no.

Q. You cannot say what?

A. I cannot say that it has always occurred. It may have occurred.

Q. I didn't say that it always occurred, if you will notice my question. Let the question be repeated.

(The stenographer repeated the question as follows:)

"Q. And that has occurred throughout this period of ten or twelve years, hasn't it?"

Q. I beg your pardon. I think maybe your interpretation of that was correct. I will put it this way.

That has occurred at various times throughout this period of ten or twelve years?

A. Yes, sir.

Q. And you don't know how often that has occurred?

A. Not very often.

Q. You do not carry in your mind——

A. No; I don't know how often it has occurred.

Q. You don't know how often that is?

A. No.

Q. That is true as to all of these things you have been purchasing?

A. Yes, sir.

Q. You cannot now give any idea of how often it has been, or just the particular times it has occurred?

A. No, sir.

Q. You have had no reason to charge your memory about that item?

A. No, sir.

Q. Take the year 1904: Can you give the percentage of all the material you got from the subsidiaries of the United States Steel Corporation that year, in your steel purchases?

A. It would be mere guesswork on my part. It would be in other years, except 1910, which was a big year.

Q. But back of that it would be guess work, would it?

A. Yes, sir; unless you would allow me to refer to these papers.

Q. I am trying to get what you recall about that period, what you carry in your mind. That is what I am trying to get at.

A. All right.

Q. As to this large Arkansas contract that you spoke of: Did you bid on furnishing the pipe?

A. Yes, sir, on furnishing and laying the pipe.

Q. But part of it——

A. There were additions to the contract.

Q. And on that you did not bid on furnishing the pipe?

A. We took the same price on laying the pipe that we had figured in the contract, and the Arkansas people furnished the pipe.

Q. In the year 1913 what percentage of your structural steel did you get from the Carnegie?

A. It might have been 80 per cent.

Q. In 1912?

A. By structural steel do you mean fabricated?

Q. Fabricated and unfabricated.

A. You understand the fabricated would not come from the Carnegie Steel Company.

Q. Take the unfabricated.

A. Oh, I would say about 80 per cent.; but the structural steel part of our business is small, compared with pipe. Our structural steel would not amount to over five per cent. Our pipe would run up to 83 per cent.

MR. REED: That is, 83 per cent. of your total purchases?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. You mean each year?

A. No; taking the total number of thirteen years.

Q. Did you not, in the earlier years, beginning, say, with 1901, buy as much as 75 per cent. of your pipe requirements from the National Tube Company, and did not that extend over a period of years?

A. 75 per cent. we bought I think at that time, but I think we bought even a little more than that, perhaps 80 per cent. at that time.

Q. Did not that continue down to about two years ago?

A. No, sir. If you would take the Arkansas Natural Gas Company contract out of that I don't think that we would have a total of 60 per cent. Leaving the contract in there it would be 83 per cent.

Q. For what period?

A. The thirteen years.

Q. From the National Tube Company?

A. From the National Tube Company; yes, sir.

Q. What were your purchases, or have you any idea of the tonnage in plates in 1901?

A. Very small.

Q. How would it be for 1902, 1903, 1904, 1905, and 1906?

A. I don't think it would exceed 40 to 80 tons in those years.

Q. Were your purchases, then, by contract or from hand to hand as needed?

A. Just as required.

Q. Do you remember anything about the quotations upon those prices for plates for those years?

A. I don't recall the money price.

Q. I know, but do you recall anything especially about the quotations?

A. Nothing, except that they always varied.

Q. You say they always varied?

A. Yes.

Q. Do you know when the plate pool existed?

A. I never heard of the plate pool.

Q. You did not know there was a pool from 1901 down to about 1904 or 1905?

A. I didn't know anything about it.

Q. Didn't you know anything about a structural pool during that period?

A. No, sir.

Q. Take 1901: can you state from whom you got bids on plates? I mean, do you remember?

A. It would be the American Sheet & Tin Plate Company, and, likely, the Sheet Metal Company. Follansbee was not in business then, I think.

MR. REED: He is talking about sheets. You asked about plates.

MR. DICKINSON: Yes; I asked about plates.

THE WITNESS: Oh, plates; plates would not amount to much. There would be the Carbon Steel Company, the Carnegie Steel Company—those principally.

By MR. DICKINSON:

Q. Do you remember that there were, or is this just simply conjecture?

A. That is conjecture.

Q. How about 1902?

A. About the same.

Q. How far down would it be about the same conjecture as to plates?

A. About to the present time, because our business in plates is very small.

Q. About structural: was that a large or a small part of your purchases?

A. Structural would not exceed five per cent.

Q. Suppose I asked the same questions about structural from 1901 down to the present time as to the bidders and the variation in bids?

A. Jones & Laughlin and the Carnegie Steel Company would be the principal ones; perhaps 60 per cent. for Carnegie, and 40 per cent. for Jones & Laughlin.

Q. Do you know anything about what the bids were in any of those particular years, or who bid?

A. As to prices, no.

Q. And you do not remember what their relation was to each other?

A. No, sir.

Q. And those are the only two bidders you now positively recall on structural down to 1910?

A. Down to 1910, yes.

MR. DICKINSON: That is all.

MR. REED: That is all.

MR. REED: The witness Joseph F. Guffey having been asked to prepare and send a statement or table which would show the tonnage of his company's purchases from the different bidders mentioned on Exhibits 122 to 140, both inclusive, and having promised to send such a statement to counsel for the defendants (Vide page 8109 of testimony, Volume XX), now submits the letter of December 17, 1913, and five attached sheets which together are marked "Defendants' Exhibit 183."

It is agreed by counsel that this exhibit shall be regarded as if presented by Mr. Guffey at the time of his examination as a witness in this case, and with this understanding, we now offer it in evidence.

MR. COLTON: I object to Defendants' Exhibit 183 as irrelevant and immaterial, and on the further ground that from the witness' own testimony it appears that it does not cover the entire purchases by his company of the character of articles named.

MR. REED: To which we reply that we find that it appears by the request at page 8109, Volume XX, and by Mr. Guffey's letter, Exhibit 183, that the contrary is the fact.

(The papers were thereupon marked "Defendants' Exhibit (Guffey) No. 183, December 19, 1913," and will be found in the volume of Defendants' Exhibits.)

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS

FRED L. HAWES

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live?

A. Ithaca, New York.

Q. What is your business?

A. Jobber in heavy and shelf hardware.

Q. What is the name of your concern?

A. Treman, King & Company.

Q. What is it, a firm or corporation?

A. Corporation.

Q. How long has it been in that business?

A. Since 1844.

Q. How long have you been connected with it actively?

A. About 29 years.

Q. Have you had anything to do with the buying of the products it handles?

A. Yes, sir.

Q. Does it handle steel products?

A. Yes, sir.

Q. What lines?

A. Wire nails, plain wire, barbed wire, woven wire fence, poultry netting, window screen cloth, iron bars, galvanized and black sheets, form products, tin plate.

Q. You mentioned iron bars. Do you also handle steel bars?

A. No.

Q. You do not handle steel bars?

A. No.

Q. What has been your annual tonnage in steel products?

A. 2,500 to 3,000 tons.

Q. Consisting most largely of what articles?

A. Wire and wire nails.

Q. That is, wire products?

A. Wire products and sheets. One other thing I neglected to mention; that was pipe.

Q. Do you handle a considerable quantity of pipe?

A. It is a new thing with us within two years. Last year we handled about 300 tons.

Q. How do you buy, on contracts or from time to time to meet immediate requirements?

A. Largely on contracts, 60 days.

Q. And do you obtain quotations before making your purchases?

A. We do.

Q. From whom?

A. From the various manufacturers that make the goods.

Q. Do you ask quotations from the manufacturers generally, or only from a selected few?

A. All of the manufacturers whose goods we could handle and consider of an equal quality.

Q. Among them, so far as the manufacture of wire goes, you include the American Steel & Wire Company?

A. Yes.

Q. How have the quotations that you have received on wire products been; the same or varying?

A. Varying, as a rule.

Q. Is that true for the whole period of ten years past?

A. Always since I have been in the business.

Q. From whom have you invited bids on your plates, which you said was the next largest?

A. Sheets.

Q. Sheets, did you say?

A. Yes.

Q. From whom have you gotten bids on sheets?

A. Wheeling Corrugating Company, Berger Manufacturing Company, La Belle Iron Works, Seneca Iron Company, Brier Hill of a recent date.

Q. Have the quotations on these sheets been variant also?

A. Yes, sir.

Q. Do you buy from the lowest bidder ordinarily?

A. Not at all times.

Q. Ordinarily, do you?

A. Well, part of our product; we have a demand for the Apollo brand of sheets, which we buy irrespective of the price.

Q. To meet that trade?

A. Yes.

Q. But where circumstances of that kind do not interfere, do you ordinarily buy from the lowest bidder?

A. Yes, sir.

Q. Of those whom you select and whose quality you approve?

A. Yes.

Q. Have the quotations on these sheets been variant?

A. Yes, sir.

Q. I don't know but what I asked you that a minute ago.

A. Yes.

Q. About pipe: you have only been buying that for two years, you say?

A. Yes, sir.

Q. Do you get quotations ordinarily from the manufacturers of pipe?

A. Yes, sir.

Q. And have they also varied?

A. Yes, sir.

Q. From whom have you bought your pipe?

A. From the Youngstown Sheet & Tube Company almost entirely, with one or two exceptions; entirely the Youngstown Sheet & Tube Company.

Q. Have you bought any from the National Tube?

A. No, sir.

Q. Why not?

A. We have been able to do better.

Q. On prices?

A. Yes, sir.

Q. From whom have you bought your sheets, other than these Apollo sheets?

A. Wheeling Corrugating Company, Berger Manufacturing Company, La Belle Iron Works.

MR. DICKINSON: What subject are you talking about now; what commodity?

MR. LINDABURY: About sheets.

MR. DICKINSON: Corrugated sheets?

MR. LINDABURY: No; all kinds of sheets.

THE WITNESS: Flat sheets.

MR. LINDABURY: I did not designate in my question what kind.

By MR. LINDABURY:

Q. And have these awards of your contracts or tonnages been upon a competitive basis?

A. Yes, sir.

Q. And the lowest bidder has gotten the contract?

A. Yes, except in the case of the Apollo.

Q. And has the situation you have described with regard to pipe obtained during the whole of the last ten years?

A. Pipe?

Q. I did not mean pipe—sheets?

A. Yes, sir.

Q. Have you gotten anything from the American Sheet & Tin Plate Company except the Apollo?

A. An especial brand, which they make for us specially.

Q. I suppose the other competitors beat them in price?

A. Yes.

Q. Right along?

A. Generally; yes, sir.

Q. You mentioned, beside that, tin plate; how much tin plate do you handle?

A. From 500 to 1,000 tons.

Q. Have you been handling that during the last ten years?

A. Yes, sir.

Q. And do you buy that on competition?

A. No, sir; not in recent years.

Q. That is, you do not ask bids for it.

A. No, sir.

Q. Where do you get it?

A. From the American Sheet & Tin Plate Company.

Q. Why is that?

A. Because of the quality.

Q. And you don't ask quotations from others?

A. No, sir.

Q. You handle formed products, do you?

A. Yes.

Q. What are they?

A. They are roofing material, such as roll roofing, corrugated sheets, sidings.

Q. Do you find various prices or quotations?

A. Yes, sir; a great deal.

Q. How are those sold?

A. At the present time they are sold very largely by weight. Until the last few years, by the square, or by area.

Q. Where do you buy that material from now?

A. From the American Sheet & Tin Plate Company, the Wheeling Corrugating Company, Berger Manufacturing Company and La Belle.

Q. How do you buy now,—on a weight basis or a square foot basis?

A. By weight.

Q. Did you have any experience under the old practice that led you to give it up?

A. Yes. We had a good deal of trouble. Up to five years ago we were unable to buy any formed products of the Sheet & Tin Plate Company at any time.

Q. Why?

A. Because their price was too high; and yet at times their flat sheets would be as low.

Q. Were their prices very much higher than those of the others?

A. Yes, sir; considerably higher. I took the matter up with them at various times, and we could not really fathom it, until an incident occurred, I believe it was in 1906, at the time of the strike, when we were buying formed goods, wherever we could get them, and one of our customers telephoned——

MR. DICKINSON: I object to any hearsay.

By MR. LINDABURY:

Q. You went to see him in answer to the telephone?

A. Yes.

Q. What did you find?

A. We found the goods that we had shipped him were not 28 gauge, what he had bought.

Q. That is, what he thought he was buying?

A. Yes, sir.

Q. How extensive did you make your examination?

A. I went personally to our warehouse and weighed the various roll roofing that we had in stock.

Q. How many concerns' roll roofing did you have?

A. Three.

Q. How did you find them?

A. I found they varied from 76 to 79 and 85 pounds, to the square, and all bought for 28 gauge.

Q. What ought they to have weighed?

A. 85 pounds.

Q. Were any of those furnished by the American—by our company?

A. Yes, sir; the 85 pound product was.

Q. Was that the only one that was full weight?

A. Yes.

Q. Since that you have been buying by weight?

A. Yes, sir.

Q. And have prices come closer together since then?

A. Yes, sir.

Q. That is on a per ton basis the American prices have been tolerable? Their prices have been such as you could pay, when you bought on a per ton basis?

A. Some of the time.

Q. They were too high for you part of the time?

A. Yes, sir.

Q. There has still been variation in the quotations between the different concerns?

A. Yes, sir.

Q. I think you said you buy poultry netting or some other kind of wire netting?

A. Poultry netting and wire cloth.

Q. How long have you been handling that?

A. Ever since I have been in the business.

Q. Has there been any variation in quotations on that?

A. Yes, sir.

Q. Could you tell me from whom you buy your tubes or pipe?

A. Yes, sir; I said very largely, in fact almost entirely, of the Youngstown Sheet & Tube Company.

Q. They have given you better prices, have they, than the other manufacturers?

A. Yes, sir; usually.

Q. Have you or not found competition for your trade among the different manufacturers of these different products?

A. Yes, sir.

Q. And is that true for the whole of the last ten years?

A. Yes.

Q. And of each of the products that you have named and that you have been buying?

A. Yes.

Q. Has there been any time during the last ten years when you observed any indication of price combination between the manufacturers of any one of these products that you have been buying?

MR. DICKINSON: This is objected to.

MR. LINDABURY: We have an agreement about that, Judge.

MR. DICKINSON: But the agreement is that I can enter the exception when I choose.

MR. LINDABURY: Very well; put it down.

MR. DICKINSON: This is objected to on the ground that it calls for an opinion of the witness upon a matter involving facts that are not shown to the Court, and the existence of which in his own mind is undisclosed.

By MR. LINDABURY:

Q. In view of the objection I will ask you if you know competition when you see it?

A. Yes, sir.

Q. Now you may answer the question, which is: Have you seen any indication of combination between these people who manufacture the various steel products which you buy at any time during the last ten years, with respect to any one of those articles which you have named?

A. I would have to answer that question by saying that it would be impossible for me to tell, of course, if there is any price agreement; but the prices which we were able to get on the various commodities during the different years would not indicate any price agreement, because there has been no time when we could not buy them at several different prices from different manufacturers.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You mean that you have always bargained and reached a price before you closed, or that you first closed upon one of the first quotations given you, or how is that?

A. No; we got the price first before we closed.

Q. Well, did you get quotations and then did you accept one of those quotations, always?

A. Not always. If we do not think the market is right we pass up all the quotations.

Q. Then do you take up and negotiate and sometimes reach a conclusion and make a purchase?

A. Yes.

Q. How often have you done that; do you know?

A. We do that on practically every purchase we make.

Q. That is to say, on practically most of the purchases, when you get quotations, you begin to deal and bargain for a price?

A. No; we do our bargaining beforehand.

Q. You do your bargaining beforehand, before you get your quotations?

A. When we are in the market for a certain tonnage in a certain commodity we send out inquiries to various manufacturers whose goods we are willing to handle, and ask them to quote us on a certain tonnage, and on the prices which we get, if we are in the market, we give it to the lowest man, unless some other conditions enter into it.

Q. Do you always give on the first bids that come in, or do you sometimes take up the bids and negotiate on the bids to reach a price lower than the first quotation?

A. That is sometimes the case, but very rarely.

Q. So that you do most of your purchasing by taking one of the quotations that are sent in to you?

A. On the list we send out, yes.

Q. Do you know how often you do that?

A. We do it constantly, all the time; we are doing it this week.

Q. Are you a large purchaser?

A. Yes.

Q. Can you not, when you have a large order to place, sometimes get below any of the bids that are quoted to you on your solicitation, the first bids offered?

A. Yes, at times a traveler will be sent by a mill to name a lower price than that which they had quoted, or offer some inducement in the way of datings to secure the order.

Q. Do you always deal with the travelers, or don't you ever deal direct with the manufacturers?

A. These inquiries are always sent to the manufacturers.

Q. And then they send you quotations, do they?

A. Yes.

Q. And then you take those quotations, and sometimes you buy on one of those?

A. Yes.

Q. And sometimes you do not?

A. Sometimes we do not.

Q. Do you ever take it up right back with the manufacturer, or do you wait for the salesman to come before negotiating for a lower price?

A. We take it up in rare cases, where we write back to the manufacturer that we can not give him the business because his price is too high.

Q. Then you sometimes get a lower price?

A. At times, yes.

Q. Take poultry netting; how many people did you get quotations from on poultry netting in the year 1912?

A. Three.

Q. How many purchases of poultry netting did you make in 1912?

A. How many purchases or how many concerns?

Q. How many particular purchases did you make?

A. Oh, hundreds.

Q. In 1912?

A. Yes.

Q. How many concerns did you buy from in 1912?

A. Two, I think.

Q. So that all of these hundreds of purchases in 1912 you placed all of them with two concerns?

A. Yes.

Q. Some with one and some with another?

A. Very largely with one.

Q. Which one?

A. Wickwire Brothers.

Q. Who was the other person you placed with?

A. Gilbert & Bennett.

Q. Do you know from whom you got bids on these hundreds of purchases except from Wickwire and Gilbert & Bennett in 1912?

A. The New Jersey Wire Cloth Company and some purchasing agents in New York.

Q. Did the New Jersey Wire Cloth Company bid on all these purchases?

A. No; the poultry netting business—that is a seasonable article, of which perhaps 90 to 95 per cent. is all shipped February 1st or thereabouts, and the business is closed up within 30 or 60 days after the opening price is made.

Q. So that within 30 or 60 days during 1912 you made hundreds of purchases of poultry netting, did you?

A. Yes.

Q. After you had established your relations with these two concerns, did you continue to send them orders?

A. Yes.

Q. Did you, as you sent out those orders, or made up your mind to make purchases, take any bids after that?

A. No.

Q. So, on how many occasions did you really take bids on poultry netting in 1912?

A. Only once.

Q. Only once?

A. Yes.

Q. What time was that?

A. That is generally about November 15th of the preceding year; that is about the time that prices are usually made.

Q. Now, then, for the purchases of 1912, so far as you remember, you took bids November 15, 1911?

A. Yes.

Q. Now, just state on November 15, 1911, what concerns you took bids from.

A. Wickwire Brothers, Gilbert & Bennett, and I think the New Jersey Wire Cloth Company, or talked with their representatives. Yes, and I remember talking particularly with the Clinton Wire Cloth Company. That I had neglected to mention, and R. K. Carter & Company, New York.

Q. Now, you talked with them?

A. Yes.

Q. What time did you talk with Carter with reference to November 15th? Was it before or after that?

A. It is impossible—I am not positive about the date of November 15th, but until the last two years there has always been an opening date for manufacturers, most of which would send out a price on poultry netting and wire cloth. That has been changed, and I think I am mistaken—I think in 1912 or 1911 that they did away with that system of naming you a price at such a date, and tried to make it a commodity that would move all the year round.

Q. Then you are not certain, then, about the purchases of 1912?

A. 1911, no; I think it was a year earlier than that.

Q. What can you tell us about the purchases for 1912, when they were made and from whom they were made?

A. They were made of the two concerns which I have given you, namely, Wickwire Brothers and Gilbert & Bennett.

Q. Now, do you make a contract for your requirements?

A. No, they do not accept contracts.

Q. Then, you just order from one or the other, from time to time?

A. Yes.

Q. Did you pay them the same price?

A. No, sir.

Q. Is it a different kind of netting?

A. No, sir.

Q. The same kind of netting?

A. Yes.

Q. The same quality?

A. And there is a difference of opinion as to that.

Q. Do you sell it at the same price?

A. Not in all cases; no, sir.

Q. Generally, do you?

A. No, sir.

Q. Then there was commercially a difference in the two, was there not?

A. In our immediate locality the Wickwire, being located within 20 miles of us, has a preference over any other maker; whether there is any real difference in the quality, I am not prepared to say.

Q. Is there not a commercial difference between the two?

A. Yes.

Q. You could not compare the two just exactly, could you?

A. Yes.

Q. Were the sizes the same size?

A. Yes.

Q. And the weight the same?

A. Yes.

Q. Now, were the meshes the same size?

A. Yes.

Q. What was the difference, that made one commercially more desirable than the other?

A. Simply from the reputation of the goods.

Q. The reputation of the goods?

A. Yes.

Q. And the reputation, then, entered into the price?

A. It did, sir.

Q. Which do you sell the larger amount of?

A. Wickwire.

Q. What proportion did you get from them?

A. Ninety-five per cent., probably.

Q. You spoke of before this change, whatever it was, that

the poultry netting people had sent out prices; how did they send out those prices?

A. By mail.

Q. In what form?

A. Letter form.

Q. Do they send circulars out?

A. They are regular letter forms, with a contract. Formerly it used to be done, up to two or three years ago, upon a contract basis.

Q. That was the practice?

A. That was the original practice.

Q. Did you never get any circulars sent by the various poultry netting people in which the prices were quoted and the differentials were shown?

A. Oh, yes; we have.

Q. When were they sent out; during what year?

A. I couldn't answer that question.

Q. Were they sent out generally by the manufacturers?

A. Yes.

Q. These circulars; didn't they quote the same price on poultry netting?

A. On the circular, yes.

Q. And with the same differential?

A. Yes.

Q. And when you came to trade, however, you got something different from that, did you not?

A. Yes.

Q. In 1913 what proportion of all your steel wire products have you bought from the United States Steel Corporation? I mean by that, from its subsidiaries.

A. I should say 60 per cent.

Q. How would it be for 1912?

A. I should think about the same percentage.

Q. How far back would it run, about the same per cent.?

A. I think up to 1910 perhaps we did not give that large a percentage, because it was in the year 1910, I think that we gave the large bulk of our wire nail business to another mill.

Q. Take 1909.

A. Well, I cannot recall that.

Q. Can you recall anything back of 1909, and what percentage of your requirements were bought from the United States Steel Corporation?

A. I cannot, because they are so varied.

Q. Take 1901, from whom did you get your steel and wire products?

A. I could not answer that question.

Q. 1902?

A. The reason I cannot answer that question is that depending upon the year, as to some of these commodities, where one mill made us a better price than another, we would give one mill the business one year and some other mill the business the succeeding year.

Q. Can you tell what companies bid you on steel and wire products in 1901 that you now remember?

A. I cannot.

Q. Can you for 1902?

A. No, I cannot.

Q. Do you know what the bids were?

A. No, sir.

Q. In 1903, from whom did you buy your steel and wire products?

A. I cannot remember.

Q. Do you know who the bidders were?

A. No, sir.

Q. Or what they were?

A. No, sir; I did not look up anything so far back as that.

Q. What is the first year from this back of say 1910 that you can remember from whom you bought your steel and wire products for that year, whichever year it is?

A. 1906.

Q. In 1906, now, from whom did you get your steel and wire products?

A. From the American Steel & Wire Company, Wickwire Brothers, Pittsburgh Steel Company, Gilbert & Bennett, and I think Cambria Steel Company.

Q. Are you sure that you bought from Cambria in 1906, steel and wire products?

A. I am not sure of that, no, sir.

Q. Are you sure that you bought from all these others?

A. Yes, sir.

Q. All the other four?

A. Yes, sir.

Q. Do you know what percentage you bought that year of all your steel and wire requirements from the American Steel & Wire Company?

A. No, sir, I do not.

Q. Can you approximate that?

A. I think I should estimate it at fifty per cent.

Q. Do you remember in 1905 from whom you bought and what percentages?

A. Practically the same, with the exception of the Cambria. I think we began purchasing in 1906 of Cambria some, but I am not positive of that date.

Q. I asked you about 1906, about the Cambria, and now you say that you are pretty sure you got bids from the Cambria in 1906.

A. I say I am not positive about that. I am not positive because we never bought goods of Cambria but one year, and what year that is I do not know.

Q. Now, take sheets in the year 1907. Do you know from whom you bought your sheets and the percentage from the various makers?

A. Yes, sir.

Q. Well, now, just tell me, will you?

A. Yes, sir.

Q. All kinds of sheets now?

A. American Sheet & Tin Plate Company, Wheeling Corrugating Company and Berger Manufacturing Company.

Q. Do you know the price you paid the American Sheet & Tin Plate Company in 1906?

A. No, sir; because there have been several prices in every year.

Q. Do you know any of them?

A. No, sir.

Q. Do you know what you paid to Wheeling?

A. No, sir.

Q. Or the Berger?

A. No, sir.

Q. Do you know what the bids were on any of those contracts?

A. No, sir.

Q. Or what their relations were to each other?

A. No, sir.

Q. How much was your tonnage in sheets in 1906?

A. About 300 tons.

Q. When did you begin to buy the Apollo brand?

A. Thirty years ago or longer.

Q. Who makes that?

A. The American Sheet & Tin Plate Company.

Q. Did you buy any of the Apollo Brand in 1906?

A. Yes, sir.

Q. Do you know what the tonnage of the Apollo brand was you bought that year?

A. It would be—you see the sheet contract covers the form products. You are talking specifically now of flat sheets?

Q. Well, all kinds of sheets, what is properly called sheets?

A. You are probably aware that the contract on sheets covers form products with any of the mills, almost any of the mills.

Q. You say formed or deformed?

A. Formed.

Q. Formed products?

A. Yes, sir.

Q. And of the tonnage that you got of everything that you include under the head of sheets, state what tonnage of that in 1906 was the Apollo sheets?

A. About 50 per cent.

Q. And what would that be in tonnage?

A. Of flat sheets that would be about 150 tons.

Q. Is that the only kind of sheets that you bought from the American Sheet & Tin Plate Company?

A. In 1906?

Q. Yes.

A. Yes, sir.

Q. Well, later dates have you bought other kinds?

A. Yes, sir.

Q. When did you begin buying some other kind than the Apollo from them?

A. 1911, I think.

Q. I believe that you stated that you bought all your tin plate, did you not, from the American Sheet & Tin Plate Company?

A. No, sir.

Q. How is that?

A. We have not bought all of it; we have bought a very large per cent. of it.

Q. What percentage?

A. 99½, practically all, excepting that in 1906 we bought some plate as a sample and it proved very unsatisfactory.

Q. What was the tonnage of what you call formed products in 1913?

A. About 300 tons, I should think.

Q. And from whom have you bought the larger amount of that?

A. The larger amount from the American Sheet & Tin Plate Company.

Q. What percentage?

A. 60 or 70 per cent.

Q. How far back in years would that percentage run, if it would run back; if it would not just make an answer that will be comprehensive.

A. Back to 1909.

Q. Including 1909?

A. Yes, sir.

Q. Well, now, back of that what percentage would you buy in formed products from them?

A. Practically none.

Q. From whom did you get that then?

A. From the Wheeling Corrugating Company or Berger Manufacturing Company.

Q. How much were you buying in 1908 of that kind of product, what tonnage?

A. 150 or 200 tons.

Q. And what tonnage in nails did you buy in 1901?

A. I cannot tell you, sir.

Q. Do you know from whom you bought?

A. No, sir.

Q. Do you know from whom you got bids?

A. No, sir.

Q. How about 1902?

A. I don't remember.

Q. 1903?

A. I have no recollection that I could say positively who they were, because some new concerns have come into the market on wire products the last few years, and as soon as they have come in we have begun negotiating with them, and what year they came in the market I am unable to state.

Q. Now, from the year 1901 down towards 1913, what is the first year that you carry in your memory the names of those from whom you purchased nails, and what the bids were if you do remember, and who made them; what is the first year?

A. 1906 would be the first, with one exception which I did not look up, because we never made but one purchase from them, and that is the Cambria people.

Q. Now, you are speaking of nails?

A. Yes, sir.

Q. Well, in 1906, do you know from whom you bought nails?

A. Yes, sir.

Q. State the various concerns from whom you bought nails.

A. Wickwire Brothers, the American Steel & Wire Company and the Pittsburgh Steel Company.

Q. You bought from all three of those in 1906?

A. Yes, sir.

Q. Did you buy in 1901 from the American Steel & Wire Company?

A. I assume so; yes, sir. I am not positive about that—yes; I am positive that we bought from the American Steel & Wire Company in 1901.

Q. Is there any other concern you are positive you bought nails from in 1901, except the American Steel & Wire Company?

A. I cannot say, as to Wickwire Brothers, we bought from them continuously since they made nails, but when that was I don't remember.

Q. Did you buy barbed wire in 1901 from the American Steel & Wire Company?

A. Yes, sir.

Q. Do you know anybody else you bought it from in that year?

A. No, sir; I do not.

Q. Did you buy barbed wire from them in 1902?

A. Yes, sir.

Q. Do you know anybody else you bought from in 1902?

A. No, sir, I do not.

Q. In 1903, the same questions?

A. The same answers.

Q. In 1904?

A. No, sir.

Q. The same answers?

A. Yes.

Q. 1905?

A. Yes, sir.

Q. 1906?

A. In 1906 we began to buy from the Pittsburgh Steel Company.

Q. What percentage that year did you give to the Pittsburgh Steel Company? Do you remember?

A. Fully 50 per cent.

Q. Take 1913; have you bought any barbed wire?

A. Yes, sir.

Q. From whom have you bought it?

A. From the American Steel & Wire Company and Jones & Laughlin.

Q. How much have you bought?

A. About a thousand tons.

Q. How is that apportioned between those two?

A. You are talking, now, about barbed wire only?

Q. Barbed wire.

A. Then that answer is wrong.

Q. Correct it, then.

A. Because our purchases in 1913 of wire and barbed wire, and plain wire and nails, were about 1,000 tons.

Q. Then you had better answer how much barbed wire you bought in 1913.

A. That I cannot tell you.

Q. Could you tell from whom you bought it?

A. Yes, sir.

Q. From whom?

A. Jones & Laughlin and the American Steel & Wire Company.

Q. In what proportion?

A. I should say of the barbed wire it would be 75 and 25.

Q. How would you put it—75 where?

A. The American Steel & Wire Company.

Q. Did you buy any plain wire in 1901 from the American Steel & Wire Company?

A. Yes, sir.

Q. Did you buy from anyone else you know of that year?

A. Yes; Wickwire and Jones & Laughlin.

Q. In 1901?

A. In 1913.

Q. You misunderstood me, then.

A. In 1901?

Q. Yes.

A. I don't remember anything about the different places where we bought beyond 1906. The only thing I am able to answer about the American Steel & Wire Company is because we have had a continuous account with them since their organization. Therefore I am positive of that fact, but as to when the Pittsburgh came in or Jones & Laughlin or the Cambria or these other concerns, I don't remember the year they began to manufacture.

Q. It seems to be this way, then, that since the American Steel & Wire Company was formed you have bought each year from that company in nails, plain wire and barbed wire?

A. Yes.

Q. You cannot say, however, for 1901, from whom else you bought? That is to say, you cannot now give the names?

A. No, sir; but there has been no year but what we have bought some of those goods from other concerns.

Q. But you cannot now give the years or the names?

A. No, sir.

(Whereupon an adjournment was taken until Monday, January 5, 1914, at Atlanta, Georgia.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1[redacted] [redacted]1919

No. [redacted] 1[redacted]6

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 25.

DEFENDANTS' TESTIMONY.

FILED MAY 12, 1919.

(25292)

VOLUME XXV.

Index of Witnesses.

	Direct	Cross	Re-direct	Re-cross
Clyde L. King	10245	10252	10259	10260
George V. Denny	10260	10266	.....	.....
John C. Vance	10278	10288	.....	.....
J. C. Fulford	10297	10301	.....	.....
Samuel C. Dinkins	10309	10314	10330	10331
Warner H. Camp	10331	10335	10348	.....
Louis Gholstein	10349	10356	10370	.....
William D. Krenson	10370	10375	10390	.....
Isaac A. Haas	10390	10398	.....	.....
James Bowron	10405	10432	.....	.....
Mertland M. Hedges	10461	10466	.....	.....
James Bowron (recalled)	.....	10476	10484	10485
Paschal G. Shook	10487	10494	10510	10510
Austin C. Converse	10512	10516	.....	.....
Clinton A. Hunt	10525	10530	10540	.....
James D. Moore	10541	10550	.....	.....
F. Rush Simpson	10569	10573	.....	.....
Walker L. Wellford	10577	10581	.....	.....
George W. Connors	10592	10601	.....	.....
James W. Porch	10619	10624	10643	.....
Wendell P. Simpson	10644	10649	.....	.....
Ross G. Wilder	10665	10677	10694	.....
Albert S. White	10694	10699	10707	10708
Edward A. Peden	10714	10723	10732	10734
Joseph B. Simmons	10737	10742	10751	10752
Paul H. Laroussini	10753	10757	.....	.....

ONE HUNDRED AND THIRTY-FIFTH DAY.

PIEDMONT HOTEL,
Atlanta, Georgia.

Monday, January 5, 1914.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the Defendants, MR. REED.

CLYDE L. KING

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Your home is in Atlanta?

A. Yes.

Q. What is your occupation?

A. President of the Atlanta Agricultural Works.

Q. How long have you been president of that company?

A. Since its organization, about twelve years.

Q. Do you have charge of the buying of steel products for that company?

A. Yes.

Q. And have you had throughout that period of twelve years?

A. Yes.

Q. Are you in a position to observe whether or not there is competition for your business?

A. Yes.

Q. What kind of steel products do you buy?

A. Principally bars, soft and hard, and slabs.

Q. And by "slabs" exactly what do you mean?

A. Well, it is the same thing as a tank plate, with an

additional quantity of carbon put in. We use it in making plow shapes, as they are known in our business.

Q. And by the word "slab" you mean a tank plate with a high carbon analysis?

A. That is correct, yes.

Q. What are the variations of carbon that you specify in those plates?

A. They vary from .20 to .80 per cent.

Q. .20 to .80 carbon?

A. .20 to .80 carbon, yes.

Q. About what tonnage of steel bars do you buy annually, Mr. King?

A. Bars?

Q. Yes.

A. Both soft and hard?

Q. Yes.

A. I should say from 1,500 to 2,000 tons.

Q. And do you buy any iron bars?

A. A few, yes.

Q. In any large quantity?

A. Not over 150 to 200 tons.

Q. It is a relatively small quantity, compared with your steel bar purchases?

A. Yes.

Q. Do you buy bars on a competitive basis, Mr. King? That is, do you ask quotations from different concerns?

A. Oh, yes.

Q. What factors determine the bidder to whom you will give the order?

A. Well, the price has more to do with it usually than anything else. Then of course the other considerations are, our knowledge of the seller's ability to deliver the goods as wanted, and the quality, and to take care of the shipments and give us the service, and so on.

Q. Delivery and quality enter into it?

A. Yes.

Q. But price mostly?

A. Yes.

Q. From what companies have you been in the custom of receiving quotations on steel bars?

A. Well, do you want me to name them?

Q. If you please.

A. Cambria, of Johnstown, Pennsylvania; Crucible Steel Company of America, Pittsburgh; Jones & Laughlin Steel Company of Pittsburgh; the Tennessee Coal, Iron & Railroad Company, and the Atlanta Steel Company.

Q. That is located here in Atlanta?

A. Yes; and the Republic Iron & Steel Company. They are the principal ones.

Q. Do you get quotations too from the Inland Steel Company?

A. Yes.

Q. And the Youngstown Sheet & Tube?

A. Yes, on certain products. We do not get quotations from the Youngstown people on the bars and slabs.

Q. I am asking only about bars. Do you get quotations on bars from Youngstown?

A. Yes.

Q. And do you get quotations on bars too from the La Belle Steel Company of Wheeling?

A. We formerly did, but we haven't done any business with them, though; I do not think we have had any prices from them for two or three years.

Q. You have not been asking quotations from them recently?

A. No, sir.

Q. Now, during the last three or four years what percentage of your steel bars have you been getting from the Tennessee Coal, Iron & Railroad Company?

A. During the past three or four years?

Q. Yes.

A. What percentage of bars?

Q. Yes.

A. Only?

Q. Bars only.

A. I should say from 60 to 70 per cent.

Q. And prior to that period; that is, up until three or

four years ago, what proportion of your bar purchases were from the Tennessee Coal, Iron & Railroad Company?

A. Probably 20 to 25 per cent.

Q. You increased your buying from them very much three or four years ago?

A. Yes.

Q. In regard to the quotations that you have been receiving on bars, Mr. King, do you find that they vary, or that they are all alike?

A. They usually vary.

Q. How long has that been so, Mr. King?

A. Ever since we have been buying.

Q. At this time do you remember any instance where every bid that you got on steel bars was the same?

A. No, sir.

Q. Is the competition for your business in bars active or otherwise?

A. It is pretty keen.

Q. How about your own business, Mr. King: What does your company make?

A. We make plows and agricultural implements.

Q. Have you any competition in that business?

A. Decidedly so; yes, sir.

Q. Is it pretty keen competition?

A. Yes, sir.

Q. In view of that fact, does the price that you pay for your raw material assume a great importance to you?

A. It does.

Q. I suppose your ability to compete depends on your getting your raw material as cheaply as possible?

A. It has a great deal to do with it; yes, sir.

Q. And for that reason, I suppose, it is important to you to see that you do get competition for your purchases?

A. Yes, sir.

Q. And have you had competition for your purchases of bars throughout the twelve-year period?

Mr. Colton: Just a moment. I object on the ground that the witness cannot know as to the arrangement in regard to

minimum prices among the different manufacturers, and cannot, therefore, pass an opinion on whether he has had competition or not.

By Mr. Reed:

Q. Will you answer the question?

A. I would like to have it repeated.

(The stenographer repeated the pending question.)

The Witness: Yes, sir.

By Mr. Reed:

Q. I notice, Mr. King, that your purchases from the Tennessee Company very largely increased three or four years ago. Prior to that time how did you find the service of the Tennessee Company?

A. Not satisfactory.

Q. Do you remember the panic of 1907?

A. I do.

Q. Prior to that panic, which was the time when the Steel Corporation bought the Tennessee Company, how did you find the quality of the Tennessee product?

A. Prior to the time the Tennessee Company was bought in by the U. S. Steel Corporation?

Q. Yes, sir.

A. We found the quality of their product was not such that we could advantageously use much of their product.

Q. In what respect was the quality of their product unsatisfactory?

A. First, the sizes were irregular; the size, both as to thickness and width.

Q. We are speaking now of bars?

A. Of bars, yes. They did not seem to have proper equipment or knowledge of how the material should be finished to give it to us in a satisfactory shape. The carbon was irregular. At times we would find a variation of as much as one-sixteenth and sometimes more than that in the thickness of one bar on one end, as against the same bar on the other end.

Q. In other words, it would have gained or lost in thickness in the course of the rolling of one bar?

A. In the course of the rolling, yes; and it was impossible for us to use such material for the majority of our needs.

Q. I suppose that a variation of one-sixteenth of an inch would be extremely important, would it?

A. Yes, sir.

Q. For most purposes?

A. Yes, sir.

Q. Since the Steel Corporation bought the Tennessee Company has there been any change?

A. Yes, sir.

Q. For the better or the worse?

A. Considerably improved.

Q. Taking the matter of quality first: how has their rolling practice improved, if at all?

A. They are now able to give us just about as good steel, both as to the quality and the size, as any of the mills in the north from whom we have been heretofore buying.

Q. Is their rolling accurate?

A. Yes, sir; as much so as we would get it from other people.

Q. How about the carbon content of the steel?

A. That is all right.

Q. You have no more trouble with that?

A. No more trouble on that line.

Q. How about their promises of delivery, Mr. King?

A. We find that, within the past three or four years, they have steadily made improvement along that line; and for the past year or two particularly they have come more nearly making us specific promises of delivery when our specifications were received by them, and have, generally speaking, lived up to their promises.

Q. As compared with the performance of the old administration of the Tennessee Company, that is, prior to the panic of 1907, has there been an improvement in this matter of deliveries?

A. Oh, yes; yes, sir.

Q. In those days, when you found the rolling widths and thicknesses irregular, the carbon analyses fluctuating and the

deliveries unreliable, did you give your business to the T. C. & I. on an even basis in most cases, or would you prefer a northern mill at the same price?

A. We would prefer the northern mill.

Q. Now, Mr. King, I want to take up for a moment your plate purchases.

MR. COLTON: That is what he called plow slabs?

THE WITNESS: Plow slabs.

By MR. REED:

Q. These high carbon plates that you spoke of, running as high as .81 of one per cent. in carbon; how many tons of such plates do you buy annually?

A. From 2,000 to 2,500 tons.

Q. And do you ask for competitive quotations on them?

A. Yes.

Q. From what companies?

A. The Crucible, the Cambria, Jones & Laughlin and the Carnegie.

Q. And the Tennessee Coal, Iron & Railroad Company?

A. The Tennessee Coal, Iron & Railroad Company.

Q. Do you ever ask quotations from the Portsmouth Steel Company?

A. Yes.

Q. Do you find the quotations vary there also?

A. Yes, there is always some difference in them.

Q. And how long has that been the case, Mr. King?

A. So far as I know there has always been some difference.

Q. And you buy there on a competitive basis too, do you?

A. Yes.

Q. From your standpoint as a consumer of steel products do you find that the purchase of the Tennessee Company by the United States Steel Corporation was an advantage or a disadvantage?

A. It has resulted in an advantage to us.

Q. Has it in any way that you know of resulted in a disadvantage to the southern consumers?

A. No, sir.

Mr. Colton: I object to all this testimony, if it is intended to relate to anything other than Mr. King's own purchases; he has not been shown to have any familiarity with the way it affects other people.

Mr. Reed: You may cross examine.

CROSS EXAMINATION

By Mr. Colton:

Q. Through the acquisition of the Tennessee Company the Corporation has been enabled to secure from 60 to 70 per cent. of your business, has it not, Mr. King?

A. It has.

Q. Now, prior to the acquisition of the Tennessee Coal, Iron & Railroad Company, what percentage of your business went to the subsidiaries of the United States Steel Corporation?

A. Other than the Tennessee Company? I do not know whether I am prepared to answer that or not.

Q. Can you give the percentage that went to the Carnegie Company prior to the acquisition of the Tennessee Company by the United States Steel Corporation?

A. Not definitely, no, without reference to records.

Q. Is it not a fact that the United States Steel Corporation has greatly increased the percentage of your purchases from them since it acquired the Tennessee Coal, Iron & Railroad Company?

A. Yes.

Q. And has not the percentage of your business that it secures in tonnage been very much larger since it acquired the Tennessee Coal, Iron & Railroad Company than before?

A. Yes.

Q. And you are not prepared to state just how much it has increased?

A. Not with any degree of accuracy.

Q. Did you, prior to the acquisition of the Tennessee Coal, Iron & Railroad Company at times buy bars from the Carnegie Company?

A. Prior to the time of the acquisition?

Q. Yes.

A. I don't think so; not bars.

Q. Did you buy plow plates?

A. Slabs, yes.

Q. Did you buy bars of any one of the Corporation's subsidiaries prior to the acquisition of the Tennessee Coal, Iron & Railroad Company?

A. I don't know.

Q. Do you buy bars from jobbers?

A. No, sir.

Q. You buy from manufacturers?

A. Always from mills.

Q. And you are not able now to state whether you purchased from the United States Steel Corporation or not—bars?

A. For the reason that I do not know which of the companies are subsidiaries, or were subsidiaries to the United States Steel Corporation. Of course I know from whom we bought bars, but whether or not they are subsidiaries, I do not know.

Q. Just name them.

Mr. Reed: There are only two that make bars, the Illinois and the Carnegie.

The Witness: We bought some bars from the Illinois Steel Company prior to the time the United States Steel Corporation purchased the Tennessee Coal, Iron & Railroad Company, yes.

By Mr. Colton:

Q. The Tennessee Company and the Illinois Company were in competition for your business in bars?

A. Yes.

Q. That is, prior to the acquisition?

A. Yes, prior to the purchase of the Tennessee Company.

Q. Have you purchased any bars from the Illinois Steel Company since the acquisition of the Tennessee Company?

A. A few, yes.

Q. What percentage of your bars do you purchase from the Atlanta Steel Company?

A. What do we purchase now?

Q. Yes.

A. Probably 10 to 15 per cent.

Q. What sizes of bars do you get from the Atlanta Company?

A. Anything under two inches wide and a half an inch thick.

Q. They are only small bars?

A. That is their limit; yes.

Q. From the Tennessee Company what different sizes do you get?

A. All the way up to six inches wide; from three-sixteenths to one inch thick.

Q. Are you prepared to state the percentage you purchased from the Tennessee Company before it was acquired by the United States Steel Corporation?

A. Not definitely. I could say approximately.

Q. You did get a substantial portion of your bars from the Tennessee Company before its acquisition by the Steel Corporation?

MR. REED: He has already stated that.

THE WITNESS: No, sir. We did not get what I would term a substantial quantity.

By MR. COLTON:

Q. Did you get 20 per cent.?

A. Yes.

Q. Do you now get what you would term a substantial quantity of bars from any other company than the United States Steel Corporation? If so, state what company that is.

A. We do not.

Q. Do you get what you would term a substantial portion of your plow slabs or plates from any other company than the United States Steel Corporation? If so, state what company that is.

A. The Cambria Steel Company, Johnstown, Pennsylvania.

Q. What percentage of plow slabs do you get from them?

A. At the present time?

Q. Yes.

A. I should say 25 or 30 per cent.

Q. Any other company?

A. No, sir. Well, we get some special steel that is used in the manufacture of implements from the Crucible Steel Company; but the slab we do not get from anyone else except the Cambria and the Tennessee Company at the present time.

Q. Before the Tennessee Company was acquired by the United States Steel Corporation you secured a considerable portion of your plow slabs or plates from the Carnegie Steel Company, did you not?

A. We secured some more or less, depending altogether on the price and the condition of their promises as to deliveries and so on.

Q. Then there was competition between the Carnegie Steel Company and the Tennessee Coal, Iron & Railroad Company for your business in plow slabs or plates, was there not?

A. Yes, sir.

Q. Prior to its acquisition by the Steel Corporation?

A. Yes, sir; and there is yet.

Q. You say there is still competition between the Carnegie Steel Company——

A. Well, Carnegie, Jones & Laughlin, the Cambria Steel Company, the Tennessee Coal, Iron & Railroad Company, all compete for our business every year.

Q. Since the acquisition of the Tennessee Coal, Iron & Railroad Company, the Corporation has made Birmingham a basing point for certain products, has it not?

A. I think so.

Q. And as regards the Corporation's mills that will make the Corporation's price lower for the Tennessee Company than it is for the Carnegie Company, will it not?

A. In certain territories I imagine that it will, yes.

Q. It does to you, does it not?

A. It does to us.

Q. Since the acquisition of the Tennessee Company by the

Corporation, have you purchased any of your plow slabs from the Carnegie Steel Company?

A. Since the acquisition of the Tennessee Company by the U. S. Steel Corporation we have not purchased any slabs from the Carnegie Company.

Q. Have not the Carnegie quotations, ever since this change in basing point, been uniformly higher than the Tennessee Company's quotations?

A. Generally speaking, they have.

Q. Do you know a single instance in which they have not been higher?

A. Yes, sir.

Q. What year was it?

A. The year before last.

Q. On what product?

A. Slabs.

Q. What was the price quoted to you on slabs by the Carnegie Steel Company?

A. I could not answer that figure exactly without referring to my records.

Q. Did you give them any of your business?

A. We gave some of our business to the Cambria, and I think some to Carnegie, too, at that time. The price declined, and we were able to buy in the open market from the mills in the Pittsburgh district at a lesser price than our contract price with the Tennessee Company. That condition, however, did not last for a great length of time, until the Tennessee Company protected us in the decline, and gave us the benefit of the reduction in the price.

Q. That came in 1911, did it not?

A. Yes.

MR. REED: 1911 or 1912?

THE WITNESS: 1912, I guess it was.

MR. REED: He said the year before last.

MR. COLTON: Yes, I know he did, but I was thinking of the time of the well-known break, and that is the reason I asked the question.

THE WITNESS: It was in 1912.

By Mr. Colton:

Q. What month?

A. It was in the fall. I would not like to state positively; sometime between September and December.

Q. Was not that in the fall of 1911?

A. I am pretty sure it was in 1912.

Q. You think that was two years ago—in 1912?

A. Yes; there was a considerable break in the market at that time.

Q. There was a general break in the market at that time, was there not?

A. I think so, yes, sir.

Q. And did not the general break in the market occur in the fall of 1911, instead of the fall of 1912?

A. There might have been a break in both years, but I am satisfied that we found ourselves able to buy steel in the fall of 1912 at a lesser price in the Pittsburgh district than we were able to secure it on our contracts with the Tennessee Coal, Iron & Railroad Company, which was in existence at that time.

Q. Did you get quotations from the Tennessee Company before you bought in the Pittsburgh district?

A. I don't know whether we got quotations. We did not need quotations. We had their contract, which was signed, and specified a certain monthly quota of takings; and when we found that we were offered steel by the Pittsburgh companies at a lesser figure than that contained in our contract with the Tennessee Company, we took advantage of that and bought some of it.

Q. Then you cannot give any instance in which the Carnegie Company did not quote a higher price than the Tennessee Company quoted at the same time? The instance you have given—I wish to call your attention to the fact—compares the Carnegie quotations with the Tennessee Company's contract price, not with any quotation made by the Tennessee Company at that time.

Mr. Reed: Is not that rather argumentative, Mr. Colton?

MR. COLTON: I think it is proper enough in cross examination.

MR. REED: The facts speak for themselves. Mr. King has given the facts.

(By request the stenographer repeated the pending question.)

THE WITNESS: I do not know that I could answer that without going back to my records to find out.

By MR. COLTON:

Q. Do you now recall any instance in which the Carnegie Company and the Tennessee Company were quoting you at the same time and in which the Carnegie's quotation was not higher than the Tennessee Company's quotation, since this change in basing point for Birmingham?

A. I do not recall any specific instance, no, sir, where the Carnegie's price was not higher.

Q. From the Crucible Company your purchases have been of a special class of plow slabs and plates, have they not?

A. No, sir; we have bought from the Crucible Company the same things that we have bought from the Tennessee Company and the Cambria Company and the Carnegie Company and Jones & Laughlin—what are known as bars, with specified carbon content.

Q. What tonnage did you buy from the Crucible Company in 1906?

A. It would be impossible for me to answer that without going back to our records.

Q. Do you know that the Crucible Steel Company was manufacturing bars in 1906?

A. I surely do.

Q. Do you know what the lowest percentage of carbon was that they put in any of the bars?

A. No, sir.

Q. You cannot give any information as to the character of bars they were manufacturing at that time, stated in percentage of carbon, can you?

A. Yes, we bought from them for some time; almost every year we had a contract with them, up to three or four years

ago; that ranged anywhere from 300 to 600 tons. Some of it we took in what are known as ordinary soft bars, which have .15 to .25 carbon, and the other we took in the hard bars, which have from .35 to .40 carbon.

Q. Did you buy any soft bars from them in 1906?

A. I would not be able to say as to that particular year without going back to my books to find out.

Q. 1907?

A. I would not be able to tell that.

Q. 1908?

A. I wouldn't be able to tell that.

Q. 1909?

A. I would not be able to say for that year.

Q. 1910?

A. I won't say for that without reference to the books.

Q. 1911?

A. The same answer.

Q. 1912?

A. The same answer.

Q. 1913?

A. We have bought nothing from them in 1913; I can answer that positively, in the way of bars.

Q. Now, have you bought any low carbon plow slabs in 1906?

A. Low carbon plow slabs in 1906?

Q. Yes.

A. Oh, yes, we did.

Q. What tonnage?

A. I would not be able to say as to that.

Q. Have you ever bought any plow slabs from the Illinois Steel Company?

A. Plow slabs, no, sir; no slabs.

REDIRECT EXAMINATION

By Mr. Reed:

Q. This action of the Steel Corporation in making Birmingham a basing point resulted in a lower average of prices for the southern market in the Tennessee Coal, Iron & Railroad Company's product, did it not?

A. Yes.

Q. I wanted to ask you about these things which you call plow slabs. I think the record is clear on that point, but so that there may be no doubt, I will ask you: You do not mean by the term "slab" the large semi-finished flat bloom from which plates are rolled in the rolling mill, do you?

A. We know them as slabs for the reason that they come to us in varied widths and thicknesses.

Q. Will you tell us the maximum thickness in which they do come to you?

A. In which we get the slabs?

Q. Yes.

A. The maximum? Half an inch thick.

Q. You do not get any slabs of the kind that range from four to six inches in thickness, do you?

A. No, sir.

Q. And the product which you get is a finished rolled product?

A. A finished rolled product.

RECROSS EXAMINATION

By Mr. Colton:

Q. Just one other question: The Carnegie Company and the Illinois Company and the Tennessee Coal, Iron & Railroad Company were all quoting you on bars prior to the acquisition of the Tennessee Company by the United States Steel Corporation, were they not?

A. Yes.

GEORGE V. DENNY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Savannah, Georgia.

Q. What is your occupation?

A. I am vice-president and general manager of the Georgia Supply Company.

Q. How long have you been vice-president and general manager of that company?

A. Thirteen years.

Q. Are you familiar with the buying of steel products which your company gets?

A. Yes.

Q. Have you had charge of it yourself?

A. Yes.

Q. For how long?

A. Thirteen years.

Q. Do you buy on a competitive basis, Mr. Denny?

A. Yes.

Q. What kinds of steel do you buy? Or, let me ask you as to particular varieties: do you buy pipe?

A. Yes.

Q. Do you buy sheets?

A. Yes.

Q. Do you buy wire nails and plain wire?

A. Yes.

Q. Do you buy bars? Steel bars, I mean.

A. Yes.

Q. And about what tonnage of pipe of all kinds do you buy annually?

A. It varies, sir.

Q. What is the range of variation?

A. In pipe?

Q. Yes, of all kinds; tubular goods.

A. I would say 1,000 to 1,500 tons the last two years.

Q. How long have you been buying that, this whole period?

A. Hardly.

Q. I do not mean this whole tonnage, but you have been buying some pipe?

A. Yes.

Q. In each of the thirteen years?

A. Yes.

Q. Going back to the beginning of your buying, which, I take it, was about 1901—was it?

A. February, 1901, yes.

Q. Going back to that earliest period, say in the years 1901 and 1902, what percentage of your pipe was bought from the National Tube Company?

A. In 1901 and 1902? I do not think any of it.

Q. Where did you get most of your pipe in those years?

A. Spang-Chalfant and the Reading Iron Company.

Q. Since 1902 have you bought some pipe from the National Tube Company?

A. Yes.

Q. Has the percentage been constant or has it varied?

A. It varied, on the demand.

Q. Speaking generally, has the percentage that you have bought from the National Tube Company tended to increase or decrease?

A. Increase, I think, sir.

Q. You are buying more from them now than you were ten years ago?

A. Yes. We bought less from them in 1913 than we did in 1912, because we sold less.

Q. But I am speaking of your percentage. That has had a tendency to increase, has it?

A. Yes.

Q. Now, as to sheets: about what tonnage of sheets do you buy annually, and when I say "sheets," Mr. Denny, I mean to include both plain and corrugated and black and galvanized.

A. I would say from 600 to 700 tons a year.

Q. And have you been buying sheets since you started in February, 1901?

A. Yes.

Q. Where did you get your sheets at first, if you remember?

A. That is a long ways back; I could not say, sir, right at the beginning.

Q. Do you remember whether you bought any sheets in 1901 or 1902 from the American Sheet Steel Company?

A. I could not say positively, that early.

Q. What is your recollection as to whether you did or did not?

A. My recollection is that we began buying from them within two or three years from the time we started.

Q. Previous to that you had bought from other sheet mills?

A. Yes, positively so; we must have, we bought sheets.

Q. The American Sheet Steel Company has become the American Sheet & Tin Plate Company, I believe that is what it is called now?

A. Yes.

Q. Have you been buying from them much recently?

A. Well, in a period of ten years, yes, we have bought from them off and on.

Q. About what percentage of your requirements during the last ten years have you bought from them?

A. I would say about one-third.

Q. Well, take the last year, 1913.

A. We didn't buy any from them.

Q. You didn't buy any at all from them?

A. No.

Q. How about the year before, 1912?

A. I do not think we did buy any in 1912 from them.

Q. What different sheet mills have you been buying from outside of this American Sheet & Tin Plate Company?

A. The Youngstown Sheet & Tube Company; the Brier Hill Steel Company; the La Belle Iron Works, and formerly the old Thomas Steel Company, which was afterwards the Brier Hill, and the Wheeling Corrugating Company.

Q. I neglected to ask you the names of the competitors in pipe, Mr. Denny. I think you did name Spang, Chalfant & Company and the Reading Iron Company. Were there any others, outside of the National Tube Company, from which you bought?

A. Yes, sir; we bought from Youngstown and Byers.

Q. From the Mark Manufacturing Company?

A. From the Mark Manufacturing Company; yes, sir.

Q. From La Belle?

A. Some from La Belle; yes, sir.

Q. During these last two years, when you say you have bought practically nothing in sheets from the American Sheet & Tin Plate Company, have they been after your business?

A. Yes, sir.

Q. They have sent salesmen to you regularly?

A. Yes, sir.

Q. Coming to wire nails and plain wire—those, I believe, are the kinds of wire products you buy?

A. Yes, sir.

Q. About what tonnage in wire products do you buy annually?

A. From three to four hundred tons, I would say.

Q. Tell us the names of some of the competitors for your business in those products?

A. The Pittsburgh Steel Company is the only concern we have bought nails or wire from except the American Steel & Wire Company.

Q. Has the American Steel & Wire Company a warehouse in your town?

A. Yes, sir.

Q. Does that help them any in competition?

A. Yes, sir.

Q. Is it a help to you?

A. Yes, sir; decidedly.

Q. What percentage of your wire products have you been getting from the American Steel & Wire Company?

A. I would say sixty to seventy-five per cent.

Q. What, in your opinion, has been the most important factor that has aided the Steel & Wire Company to get so large a part of your business?

MR. COLTON: I object, on the ground that the witness has not been shown to be familiar with the tremendous capacity of the American Steel & Wire Company, and that any opinion on his part would be misleading.

THE WITNESS: Their having a distributing warehouse in this section, in our town of Savannah.

By Mr. Reed:

Q. Have there been other manufacturers of wire nails and plain wire that have solicited your business?

A. Yes, sir.

Q. Name some of them, Mr. Denny?

A. The Pittsburgh Steel Company and the Atlanta Steel Company.

Q. Did the Atlanta Steel Company offer quotations to you?

A. Yes, sir.

Q. Does it continue to solicit your business?

A. Yes, sir.

Q. You told us that you bought some bars; about what tonnage would you buy annually in bars?

A. Iron or steel bars?

Q. Steel bars.

A. On steel bars it is not very heavy. We throw them in with the iron bars. I don't know how to divide them. I would say not over 150 tons of steel bars.

Q. About how many tons of all kinds of bars?

A. We would use a thousand tons of steel and iron together.

Q. Are the two used sometimes for the same purposes?

A. Yes, sir.

Q. The low carbon steel is in competition with the iron bar, is it?

A. Yes, sir.

Q. What companies quote you on steel bars?

A. The Republic Iron & Steel Company, Jones & Laughlin and the Tennessee Coal, Iron & Railroad Company.

Q. Does the American Iron & Steel Company ever quote to you?

A. Not on steel bars. You mean the Lebanon concern?

Q. Yes.

A. They quote on iron bars.

Q. What percentage of your bars have you been getting from the United States Steel Corporation or its subsidiaries?

A. I have not bought any from them.

Q. Where have you bought most of your bars?

A. From Jones & Laughlin and the Republic.

Q. Has the Steel Corporation been soliciting your business?

A. Yes, sir; that is, the Tennessee Coal, Iron & Railroad Company has; I suppose that means the Steel Corporation?

Q. Yes. I mean any subsidiary of the Steel Corporation.

A. Yes.

Q. Throughout this period that you have been buying, has there been competition for your business in these different products?

MR. COLTON: Just a moment. I object on the ground that the question calls for a conclusion upon a state of facts that may be in the witness' own mind, but is not disclosed to the court.

THE WITNESS: Yes.

By MR. REED:

Q. And has that competition been active or otherwise?

A. Very active, yes, sir.

Q. Take the quotations that are made to you by the different manufacturers of these products: Do they vary or are they all alike?

A. They vary.

Q. How long has that been so?

A. Ever since I have been in the business.

CROSS EXAMINATION

By MR. COLTON:

Q. What kind of pipe were you buying in 1901 and 1902?

A. Regular wrought pipe.

MR. REED: As distinguished from cast pipe?

THE WITNESS: Yes.

By MR. COLTON:

Q. What tonnage did you buy in 1901 and 1902?

A. I could not say, sir.

Q. What percentage of it was iron?

A. None. It was all steel.

Q. You did not buy any iron?

A. In 1901 and 1902 we did not buy any wrought iron pipe, no, sir.

Q. How many tons of steel pipe did you get from the Reading Iron Company in 1901, and 1902?

A. I could not say, sir.

Q. Have you any idea?

A. No, sir. My business was very small in those years.

Q. It did not amount to much, then?

A. No, sir. The Reading Iron Company makes steel pipe, however, as well as iron.

Q. Do you know what the first year was that they made any steel pipe, to your own personal knowledge?

A. I have always understood they made both.

Q. What percentage of pipe did you get from the National Tube Company in 1903?

A. I could not say, without looking at the records.

Q. In 1904?

A. I could not say.

Q. What tonnage did you buy in 1903?

A. I could not say.

Q. In 1904?

A. I could not say.

Q. Approximately?

A. I could not go back that far even approximately. I would have to look it up.

Q. Your memory about those years is very indistinct, is it not?

A. Yes, sir.

Q. In 1905, approximately what percentage did you get from the National Tube Company?

A. I could not say, sir, from memory.

Q. In 1906 approximately what percentage did you get from the National Tube Company?

A. I could not say.

Q. In 1907?

A. I could not say, sir.

Q. In 1908?

A. I could not say.

Q. In 1909?

A. I could not say, sir.

Q. In 1910?

A. That is getting a little closer. I could not give the division as to what was bought from them, however.

Q. Approximately. I do not expect you to do it exactly. Can you not give approximately what you got from the National Tube Company?

A. And what from outside?

Q. What you got from them would be enough, for the present.

A. In 1910?

Q. Yes.

A. No; I could not, from memory.

Q. In 1911 what percentage did you get from the National Tube Company?

A. I could not say.

Q. Approximately?

A. I would say 75 per cent.

Q. In 1912 what percentage did you get from the National Tube Company?

A. Probably about the same.

Q. In 1913, what percentage did you get?

A. About the same.

Q. For the last two years the United States Steel Corporation, so far as your pipe purchases are concerned, have been getting about 75 per cent. of your business?

A. I think so, yes.

Q. What tonnage have you purchased during the last two years?

A. About 1,000 to 1,500 tons in the last three years, say.

Q. What are your total steel purchases in all materials?

A. I don't know, sir.

(By request of Mr. Colton the stenographer repeated the next preceding question and answer as follows:)

"Q. What tonnage have you purchased during the last two years?

"A. About 1,000 to 1,500 tons in the last three years, say."

By Mr. Colton:

Q. Does that mean annually?

A. Per year; yes, sir.

Mr. Reed: I would suggest that he has given the items. It is easy enough to add them up.

By Mr. Colton:

Q. What percentage of your wire products did you purchase from the American Steel & Wire Company for the year 1913?

A. I would say about three-quarters of it; 75 per cent.

Q. Over half of all your steel purchases are from the subsidiaries of the United States Steel Corporation, are they not?

A. What do you mean by steel purchases?

Q. I mean your purchases in the different products that you have testified about here; that is, in point of tonnage,—wire nails, pipe, sheets, plain wire and steel bars.

A. Yes; I would say about half of it was purchased from the subsidiaries of the United States Steel Corporation.

Q. We could figure it out from the percentages that you have given in the different products?

A. Yes, it would be safe to say that.

Q. Those percentages are all approximate?

A. All approximate.

Q. Not exact?

A. And from memory; not from any records.

Q. Now, taking wire nails: from what different companies did you get quotations on wire nails in 1901?

A. I don't recall, sir.

Q. Can you recall any of the companies from which you got quotations on wire nails in 1901?

A. No, sir.

Q. Didn't you get quotations from the American Steel & Wire Company in 1901?

A. I couldn't say, sir.

Q. Did you purchase any wire nails in 1901?

A. We must have, yes.

Q. Don't you recall that you purchased wire nails from the American Steel & Wire Company in 1901?

A. I do not, sir.

Q. From what different companies did you get quotations in 1902?

A. I can not recall, sir.

Q. Can you name any of the companies from which you got quotations in 1902?

A. Not back that far.

Q. In 1903 can you name any companies from which you got quotations on wire nails?

A. I can not.

Q. In 1904?

A. No.

Q. In 1905?

A. No.

Q. 1906?

A. No.

Q. 1907?

A. Yes, I remember that.

Q. What different companies did you get quotations from?

A. The Pittsburgh Steel Company.

Q. And what other?

A. The American Steel & Wire Company.

Q. And the first year that you remember getting quotations from the American Steel & Wire Company is 1907, is it?

A. Positively, yes, sir; the first that I can positively remember. There is a reason that I remember that.

Q. What different companies did you get quotations from in 1908?

A. The Pittsburgh Steel Company and the American Steel & Wire Company.

Q. In 1909 from what different companies did you get quotations?

A. The same two.

Q. In 1910?

A. I think at that time those two, and the addition of the

Atlanta Steel Company; I think they came in about that time, but I would not be positive.

Q. Prior to 1910 the only two companies which you can recall receiving quotations from on wire nails are the American Steel & Wire Company and the Pittsburgh Steel Company; is that correct?

A. Those are the only two that I can recall, yes.

Q. In 1911 from what different companies did you receive quotations?

A. Those two and the Atlanta Steel Company; I feel quite sure they were in business then.

Q. For 1912 would your answer be the same?

A. Yes.

Q. And 1913?

A. I don't remember 1913, because it was about 1910 or 1911 that the Pittsburgh Steel Company moved their stock away from Savannah, and they could not serve us as promptly, and I do not recall whether we received quotations from them in 1911 or 1912 or not; I am inclined to think, however, that we did.

Q. You do not recall the companies that quoted you in 1901?

A. No.

Q. Do you recall any quotations that were made to you in 1901?

A. No.

Q. You have no recollection about quotations in 1901, have you?

A. Not on nails and wire; no, sir.

Q. Is your answer the same for 1902?

A. Yes.

Q. Is your answer the same for 1903?

A. Yes.

Q. Is your answer the same for 1904?

A. Yes.

Q. And the same for 1905?

A. Yes.

Q. And for 1906?

A. Yes.

Q. And for 1907?

A. In 1907 I remember the wire nail purchases, because I happened to buy largely that year.

Q. What tonnage did you buy in 1907?

A. I think it ran larger; I think it ran 40 to 50 cars. Say 40 cars, at 40,000 pounds to the car; that would be 800 tons.

Q. And that is the first year you remember anything about quotations?

A. On nails, yes.

Q. Wire nails?

A. Yes.

Q. What is the first year that you remember anything about quotations on plain wire?

A. I have a very vague recollection on wire, because we do not handle wire largely; it is mostly nails.

Q. The tonnage is so slight on wire that you have not much recollection about that one way or the other?

A. That is correct.

Q. From what different companies did you get quotations on sheets in 1901?

A. I don't remember, sir.

Q. What is the first year that you remember anything about quotations on sheets?

A. I could not say exactly the year. As our business grew larger, we commenced getting quotations from all the manufacturers that we knew of.

Q. In 1901 what was your tonnage in sheets?

A. I don't recall.

Q. In 1902?

A. I don't recall.

Q. In 1903?

A. I don't recall.

Q. In 1904?

A. I don't recall.

Q. In 1905?

A. I don't recall any year, the tonnage in sheets.

Q. You do not even recollect it approximately for any of those years?

A. No, sir. I based my answer a while ago on what has been done for the last two years.

Q. The last two years you have some approximate idea of what your sheet purchases were?

A. Yes.

Q. What, approximately, were your sheet purchases for the year 1913?

A. I would say 500 tons and upwards.

Q. In 1912?

A. Probably about the same.

Q. Now, you say "upwards." Up to what?

A. 500 to 600 tons, probably.

Q. What sort of sheets have you purchased?

A. Galvanized plain sheets, galvanized corrugated sheets, plain black sheets and corrugated black sheets, or painted, rather.

Q. Take the plain black sheets: what is the first year that you recall having received quotations from any other company than the American Sheet Steel Company or the American Sheet & Tin Plate Company?

A. I cannot recall what year, but it is several years back; I could not give the specific year.

Q. Take it as an average, then; during the years 1903, 1904 and 1905, can you name what different companies at any time during the years 1903, 1904 and 1905 quoted you on plain black sheets other than the American Sheet & Tin Plate Company?

A. I couldn't say.

Q. Take the year 1906: could you give that?

A. I could not state with positiveness; no, sir.

Q. Do you recall what percentage you purchased from the American Sheet & Tin Plate Company that year?

A. No, sir.

Q. In 1907 do you recall what percentage you purchased from the American Sheet & Tin Plate Company that year?

A. No, sir; I could not say.

Q. Can you name any company from which you purchased plain black sheets in 1901?

A. No, I could not.

Q. Can you name any company from which you purchased any kind of sheets in 1901?

A. No.

Q. Can you do it for any one of the years from 1901 to 1907 inclusive?

A. Not with positiveness, no.

Q. Don't you know that you did purchase sheets from the American Sheet & Tin Plate Company during the year 1906?

A. I am not positive; I think probably we did.

Q. Your recollection is very indistinct in regard to purchases?

A. Back that number of years, yes.

Q. What is the year that you begin to have some recollection in regard to your purchases?

A. I would say in 1907.

Q. In 1907?

A. Yes; I can remember that we purchased from the American Sheet & Tin Plate Company.

Q. And what other companies?

A. The Wheeling Company, I think.

Q. Any others?

A. I cannot recall any others.

Q. Do you recall what percentage the American Sheet & Tin Plate Company got that year?

A. No, sir.

Q. Do you recall what percentage the Wheeling Company got that year?

A. No, sir.

Q. Do you recall any other companies from which you received any quotations in 1907 other than those two?

A. I don't recall that particular year; no, sir.

Q. Take the year 1908: name the companies from which you received quotations.

A. I presume that we received quotations from the Wheeling Company.

Q. Just a moment; I want your recollection, not presumption.

A. I could not positively state. I know that during the period of the last six years all these people have solicited our business and quoted us prices, but to pick out a particular year that the particular companies quoted us, I could not.

Q. You say for the last six years, all of what companies?

A. The American Sheet & Tin Plate Company, the Wheeling Corrugating Company, the Youngstown Sheet & Tube Company; it used to be the Youngstown Iron & Steel Company, but it is now the Youngstown Sheet & Tube Company; the La Belle Iron Works; and within the past six years, some time within the past six years, the Thomas Steel Company came into the market and we got quotations and bought from them, but just what year they started I do not know.

Q. In 1907 you have given the different companies from which you now recall having received quotations?

A. Yes.

Q. In 1908, state all the companies that you now, as a matter of recollection, recall that solicited your business in that year.

A. 1907 and 1908?

Q. No, 1908; name those.

A. The Youngstown Sheet & Tube Company, the Wheeling Corrugating Company, the La Belle Iron Works, the American Sheet & Tin Plate Company—and as I say, when the Thomas Steel Company came in; I do not remember just what year that was.

Q. What percentage of your business went to the American Sheet & Tin Plate Company in 1908?

A. I don't remember.

Q. From what different companies did you purchase in 1908?

A. I don't recall that.

Q. Do you recall that you did purchase from the American Sheet & Tin Plate Company in 1908?

A. Not positively.

Q. In 1909 from what different companies did you purchase?

A. I could not state positively.

Q. Can you name any company from which you purchased in that year?

A. I bought some steel sheets those years from one of those four or five companies, and possibly from two or three of them.

Q. You can not now recall whether you purchased from the American Sheet & Tin Plate Company or not in 1909?

A. That particular year I could not.

Q. In 1910 did you purchase from the American Sheet & Tin Plate Company?

A. I think possibly so, but I could not say positively.

Q. In 1911 did you purchase from the American Sheet & Tin Plate Company?

A. I couldn't say.

Q. In 1912 did you purchase from the American Sheet & Tin Plate Company?

A. I did not.

Q. In 1913 did you purchase from the American Sheet & Tin Plate Company?

A. I did not.

Q. Have you made any contracts for the succeeding year?

A. On sheets? I think I have a contract now with the Brier Hill people, who are the successors of the Thomas Steel Company.

Q. Are your contracts for sheets made annually or from time to time?

A. Every 60 days; generally 60 to 90 days.

Q. Your purchases of bars are insignificant compared with your purchases in pipe?

A. Yes.

Q. That is the steel bars?

A. Steel bars.

Q. Prior to the acquisition of the Tennessee Coal, Iron & Railroad Company did you get quotations from the Carnegie Steel Company on bars as well as from the Tennessee Coal, Iron & Railroad Company?

A. Infrequent quotations, yes.

Q. Your purchases of bars—they are iron, are they, mostly?

A. More largely of iron; yes, sir.

Q. What percentage of your bars do you get from the Republic Iron & Steel Company?

A. Steel bars?

Q. No, of all kinds of bars.

A. Well, we get no iron bars from the Republic Iron & Steel Company; only steel bars.

Q. What percentage is that?

A. That business is divided between Jones & Laughlin and the Republic Iron & Steel Company; almost exclusively between the two of them.

Q. How long has that been the case?

A. Four or five years, I think.

Q. And before that from what different companies were you purchasing your steel bars?

A. I did not buy enough to make it a factor. I did not buy from the manufacturers at all.

Q. From what companies did you get quotations on steel bars in the year 1907?

A. From the Cambria and Jones & Laughlin, I think, sir.

Q. Are those the only two companies that you recall?

A. Those are the only two companies that I recall.

Q. In 1908 from what different companies did you get quotations on steel bars?

A. The same two, I think.

Q. In 1909?

A. I think about that time we commenced getting quotations from the Republic, and doing business with them, in 1909 or about along there.

MR. REED: That is all.

JOHN C. VANCE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. You live in Chattanooga, do you not, Mr. Vance?

A. Yes, I do.

Q. How long have you lived there?

A. Since 1870.

Q. What is your business at the present time, Mr. Vance?

A. I am in the iron and steel business.

Q. Are you a dealer in iron and steel products?

A. Yes, sir.

Q. Do you buy from mills or from jobbers?

A. From the mills.

Q. Do you sell to jobbers or to consumers?

A. We sell to jobbers exclusively.

Q. You are a sort of a jobber for jobbers, if I understand your business rightly?

A. Yes, sir; I carry a stock, which they draw from.

Q. You carry a large supply of the materials that you deal in, do you?

A. Yes, sir.

Q. Which is used as a sort of a warehouse for these jobbers?

A. Yes, sir.

Q. When did you start in that business, Mr. Vance?

A. In 1897 or 1898; in 1897 I think it was.

Q. And in what steel products did you start?

A. Just the bars. I was the agent for the Crucible Steel Company of America for a year, and I carried their stock and was their agent; and then we had bars besides. They did not handle iron bars, and we had a stock of iron bars of our own.

Q. Then you were dealing in the Crucible Company's bars exclusively among the steel bars; is that it?

A. That is right.

Q. And in some iron bars which you bought from outside sources?

A. That is right.

Q. When did you first commence to deal generally in steel bars?

A. I don't remember the exact time I gave up the Crucible agency, but I put in steel bars at that time, after I had given up their agency, eight or ten years ago. I think it has been longer than that. I guess it has been about eight years ago.

Q. That is, about eight years ago you gave up this exclusive agency for the Crucible Steel Company?

A. Yes, sir.

Q. And began to deal in steel bars generally?

A. Yes, sir.

Q. Do you also deal in wire products?

A. Yes, sir.

Q. How long have you been dealing in them?

A. About seven or eight years.

Q. And during your seven or eight years have you been tied up exclusively to any certain manufacturer?

A. No, sir.

Q. You have bought generally, have you?

A. Yes, sir.

Q. Do you deal in pipe?

A. Yes, sir.

Q. How long have you been dealing in pipe?

A. About two years.

Q. Do you deal in structural material?

A. Yes, sir.

Q. And have been for how long?

A. Just about a year.

Q. How about horseshoes?

A. In horseshoes about eight years.

Q. Your experience goes back into the pool days, then, does it?

A. Yes, sir.

Q. Did you buy generally from the different horseshoe makers?

A. At that time, no, sir, I did not. I represented the Tredegar Company, of Richmond, Virginia.

Q. How long did you continue to be the agent for the Tredegar Company exclusively?

A. Until about two years ago.

Q. So that you did not buy in competition among the different mills until two years ago in horseshoes?

A. No, sir.

Q. Now, Mr. Vance, about how many tons of wire products do you handle in the course of a year?

A. From 50 to 60 thousand kegs of nails, about; and I guess from 25 to 35 thousand spools and coils of wire, weighing about 100 pounds to the coil.

Q. I asked for tons, and you set me a problem in arithmetic, Mr. Vance. Did you ever figure it out yourself?

A. No, sir.

MR. COLTON: You might as well make him do it now, because I want it in tons.

THE WITNESS: You have a pencil there. Just figure it out.

MR. COLTON: What do you take for the weight of the kegs?

THE WITNESS: 100 pounds.

By MR. REED:

Q. Mr. Vance, I have figured it out to be about 4,000 tons of wire products that you buy annually. Is that about right?

A. That is about right, sir. Of course it will fluctuate. Some years it will not go that much and other years it will go a little over.

Q. That is a fair average, is it?

A. Yes, sir.

Q. Do you buy wire products on a competitive basis?

A. Yes, sir.

Q. Do you ask quotations from different manufacturers before you buy?

A. Yes.

Q. Will you tell us the names of some of the manufacturers from whom you are accustomed to ask quotations on wire products?

A. The Atlanta Steel Company and the Southern Steel Company.

Q. That is now called the Gulf State Steel Company, is it?

A. Yes, sir.

Q. That is in Birmingham, I believe?

A. Yes.

Q. Any others?

A. The Kelly Iron & Steel Company, of Ironton, Ohio.

Q. All right. Any others?

A. Norton.

Q. That is the Norton Iron Company, is it not?

A. The Norton Iron Company.

Q. The Youngstown Sheet & Tube Company?

A. I never bought any nails from them.

Q. I did not ask you whether you had bought from them, but whether you had had quotations from them?

A. Yes; I have had quotations from them.

Q. From Jones & Laughlin?

A. Yes, sir.

Q. From Cambria?

A. Not from Cambria.

Q. No quotations from Cambria?

A. No quotations on wire.

Q. On nails?

A. Yes.

Q. The Pittsburgh Steel Company?

A. Yes.

Q. The American Steel & Wire Company?

A. Yes.

Q. During the eight years that you have been buying wire nails and plain wire, about what percentage of your tonnage have you obtained from the American Steel & Wire Company?

A. Very, very small. I don't think I have bought but one lot from them in my life.

Q. Would that be as much as one per cent. of your business?

A. I think it was 4,000 kegs I bought from them in one lot.

Q. When was that?

A. I don't know, sir. I could not tell you the year.

Q. Was it several years ago?

A. Yes, sir.

Q. How is the competition in wire products; pretty keen?

A. Very keen indeed.

Q. Why have you not bought more from the American Steel & Wire Company than one per cent.?

A. I have always been able to buy for a little less money.

Q. Do the quotations that you get from these different makers vary or are they uniform?

A. They vary.

Q. How long has that been so?

A. With me, right along.

Q. And at this time do you remember any time when all the quotations that you got from the makers of wire nails and plain wire were alike?

A. You mean all the quotations were the same price?

Q. Yes; that is what I mean?

A. No, sir; I could not recall one single instance.

Q. Coming to your steel bar purchases: I think you testified that you had been buying steel bars since about 1905. About how many tons of steel bars do you buy in a year, Mr. Vance?

A. That varies. I can give you the steel and iron together.

Q. All right, give them to us together, then.

A. From about 5,000 to 6,000 tons.

Q. Roughly speaking, what percentage of that 5,000 or 6,000 tons is wrought iron and what percentage steel?

A. I could not tell you. I expect, though, about 50 per cent.—about half and half.

Q. From what companies do you get quotations on steel bars?

A. From Jones & Laughlin, Cambria, the T. C. & I., the Illinois Steel—no; we never got bars from the Illinois Steel.

MR. COLTON: One moment. You asked for the quotations, did you not?

MR. REED: Yes. From what companies did you get quotations. Did you get any quotations from the Carnegie?

THE WITNESS: On steel bars? I don't recall any from Carnegie at all.

By MR. REED:

Q. From the Gulf States Company?

A. Yes.

Q. From the Atlanta Steel Company?

A. Yes.

Q. From the Youngstown Sheet & Tube Company?

A. No, sir.

Q. From the Republic Iron & Steel Company?

A. Yes, sir.

Q. From the Lackawanna Steel Company?

A. Yes.

Q. From the Pennsylvania Steel Company?

A. I don't think so.

Q. Do you get any quotations from the Inland Steel Company on bars?

A. No, sir; not on bars. We never asked them.

Q. Did you ever get any quotations from that Highland Steel Company at Chicago Heights?

A. Yes, sir.

Q. Have you found the same variation in quotations on steel bars?

A. They vary, yes.

Q. Has that been so right along since you started to buy in 1905?

A. Yes.

MR. COLTON: I would like to enter an objection here. I object to referring to the same variation for wire and bars and grouping the thing, calling on the witness to draw a conclusion on a complicated state of facts, not disclosed to the court.

By MR. REED:

Q. In the last eight years, during this entire period that you have been buying steel bars, what percentage of your pur-

chases has been made from the Tennessee Coal, Iron & Railroad Company and the other subsidiaries of the United States Steel Corporation?

A. About twenty per cent.

Q. Coming to your pipe buying: about how many tons of pipe do you get each year?

A. I don't remember. I should think it would average about eight cars a month, say 40 tons to a car or 30 tons to a car.

Q. About 3,000 tons a year?

A. I should think it would figure out about that.

Q. Do you buy that pipe on a competitive basis?

A. Yes, sir.

Q. What companies quote to you on pipe?

A. I have had quotations from the Youngstown Sheet & Tube Company, the American——

MR. COLTON: The American what?

THE WITNESS: The National. I beg your pardon.

By MR. REED:

Q. The National Tube?

A. The National Tube, Yes.

Q. Any others?

A. The Republic Iron & Steel, the Central Tube—I think it is the Central Tube; the La Belle Iron Works.

Q. Any others that you think of?

A. I don't recall any.

Q. The Mark Manufacturing Company?

A. I have asked quotations from the Mark Manufacturing Company.

Q. That is just what I asked. The Spang, Chalfant Company?

A. No, sir.

Q. Have they not quoted you?

A. I don't remember receiving any quotations from them.

Q. The Reading Iron Company?

A. Yes, sir.

Q. About what percentage of your pipe purchases, during

these two years that you have been buying pipe, has been made from the National Tube Company?

A. I think either one or two cars.

Q. About one per cent., in other words?

A. I don't think it would be one per cent.

Q. Less than one per cent.?

A. Yes.

Q. Is there keen competition in pipe?

A. I have found it so, for my business.

Q. Quotations there are usually made by discounts, are they?

A. Yes.

Q. From a uniform price list?

A. Yes.

Q. Just how, roughly speaking, do the discounts range?

A. I couldn't tell you.

Q. Did you ever know a smaller discount to be quoted, say, than 50 per cent. off the list?

A. You mean whether it was quoted 40 per cent. or 60 per cent.?

Q. Did you ever know a higher price to be quoted than 50 per cent. off the list?

A. I don't remember; I think pipe now is right around—oh, I don't know; 70 or 80 per cent. I do not know what it is.

Q. Around 70 to 80 per cent. off the list?

A. Yes.

Q. Do the discounts which have been quoted to you during the past two years vary?

A. Yes.

Q. Or are they all alike?

A. No, they vary.

Q. Coming to structural steel, structural shapes, I think you said you had just been buying them for one year, Mr. Vance?

A. Yes.

Q. How many tons did you buy in 1913?

A. Right around 1,200 tons.

Q. What percentage of that came from the United States Steel Corporation?

A. None at all.

Q. Do you get their quotations?

A. We got quotations from the Inland Steel Company.

Q. Did you get quotations from the Carnegie?

A. Never did; no, sir.

Q. From the Tennessee Coal & Iron Company on any structural shapes?

A. No, sir.

Q. From the Illinois Steel Company?

A. The Illinois Steel, yes.

Q. Did you buy any from the Illinois Steel Company?

A. Never did; no, sir.

Q. What other mills quoted you on structural shapes?

A. The Lackawanna.

Q. And Jones & Laughlin?

A. Jones & Laughlin.

Q. And the Cambria?

A. Not the Cambria; no, sir.

Q. Do you sell horseshoes?

A. Yes.

Q. In what district?

A. Chattanooga.

Q. Do you sell to jobbers only?

A. That is all.

Q. Does the United States Steel Corporation sell or try to sell to the same jobbers?

A. Yes.

Q. How long have you been competing with the United States Steel Corporation in horseshoes in the Chattanooga district?

A. About eight years.

Q. Has that competition between you and the Steel Corporation been active?

A. Very.

Q. Has it been constant, continued right along?

A. Yes.

Q. How have you got along in that business?

A. When we first went into that business the American

Steel & Wire Company had almost the entire trade in Chattanooga. I got the agency for the Tredegar people.

Q. For the Tredegar people of Richmond?

A. Yes; and I don't think there is a keg of Juniata in Chattanooga.

Q. You say you do not think there is a keg of Juniata in Chattanooga to-day?

A. No, sir.

Q. Who makes the Juniata?

A. The American Steel & Wire Company.

Q. In other words, you have driven them out of that district?

A. Yes.

MR. COLTON: I object to that; the witness does not know what arrangements were made between the American Steel & Wire Company and the Tredegar people in regard to that.

MR. REED: This is what business he has done himself.

MR. COLTON: Well, he does not know how they drove them out.

By MR. REED:

Q. How do you find the competition of the American Steel & Wire Company in horseshoes, Mr. Vance?

A. It is very keen; they try to get these jobbers.

Q. Were they fair competitors?

A. Very fair indeed.

Q. Did they resort to underhand practices?

A. Not a thing. They could have put me out of business if they had.

Q. They could have put you out of business?

A. Yes.

Q. But they did not do it?

A. No, sir.

Q. Could any other large concern have put you out of business in the same way?

A. Yes.

Q. Did you ever know the Steel Corporation to try to undersell you, at prices lower than they were charging in

other districts, for the purpose of putting you out of business?

A. No, sir.

Q. Did they ever threaten such a course to you?

A. No, sir.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. You did not attend the pool meetings at which the superior officers of the American Steel & Wire Company and the superior officers of the Tredegar Company were present, did you?

A. I did not.

Q. You know nothing about the pooling arrangements between those two companies?

A. No, sir.

MR. REED: I object to that question for the reason that there is no evidence of any pooling arrangements between those two companies.

MR. COLTON: Between them and the others. I am referring to the Jackson pool.

MR. REED: Then I suggest that you ask Mr. Vance if he knows anything about those pools.

By MR. COLTON:

Q. Did you attend any meetings of the Jackson pools?

A. I never did; no, sir.

Q. And the arrangements between them in respect to the Jackson pool, of course you know nothing whatever about that, whatever their arrangements may have been?

MR. REED: I object to that because there is no evidence in this case that the Tredegar people were in the Jackson horseshoe pool.

MR. COLTON: I think you are very much mistaken; there is evidence in the case.

MR. REED: You do not plead that they were, and I have not

all your testimony here. Is it your recollection that they were proved to be in?

MR. COLTON: Yes.

THE WITNESS: They were not members of the pool when it was dissolved.

By MR. COLTON:

Q. You do not know when they got out, do you, of your own knowledge?

A. I don't know the exact date, but I know it was two or three years before they were dissolved.

Q. Are you acquainted with the correspondence in which the head of the Tredegar Company informed Jackson that he would no longer have anything to do with the pool that was being carried on between the American Steel & Wire Company and the others?

A. No, I do not. All I know is that Mr. Anderson, the president, said if they were violating the laws of the United States he would withdraw, which he did; I know that much.

Q. And he did it some two or three years before the pool was dissolved?

A. Yes.

Q. Now, when you first went into the wire business from what companies did you get your wire products, the first year?

A. The first year, as well as I remember, it was the Kelly Iron & Nail Company.

Q. Did you make all your purchases from the Kelly Iron & Nail Company the first year?

A. I couldn't say as to that; no, sir.

Q. That is the only one you recall, the first year?

A. Yes.

Q. And the second year, do you recall from what companies you purchased?

A. No, sir.

Q. Do you recall any of the companies from which you secured your purchases the second year?

A. Well, the Atlanta Steel Company; I have been selling

their product for quite a while; I don't remember exactly how many years.

Q. You do not mean to say that you were selling their wire seven years ago?

A. I say I do not remember how far back that goes, but Kelly was the first man.

Q. Now, the second year: you cannot name a single company from which you purchased?

A. I don't remember.

Q. The third year: can you name a single company from which you purchased?

A. I do not know how long it has been. I have sold Atlanta nails for a great many years, ever since they have been in existence, off and on.

Q. You do not know when they went into the nail business, do you?

A. No, I don't recall the exact year.

Q. You do not recall when they went into the wire business?

A. The same time they went into the nail business.

Q. You have been a sort of agent for them ever since they have been in business; is that correct?

A. Yes.

Q. And as an agent for them you have handled their product in your district?

A. When their prices were lower than I could buy elsewhere.

Q. They do not maintain any warehouse in your district, do they?

A. No, sir; nobody does.

Q. Do they have any warehouse anywhere nearer than two or three hundred miles, that you know of?

A. Not that I know of, except Atlanta; that is 150 miles.

Q. What is the distance?

A. I think 138 miles to Chattanooga.

Q. The fourth year from what different companies did you get your wire products?

A. Well, just back and forth between the Southern and the

Atlanta Steel Company, and the Kelly Iron & Nail Company, and sometimes Norton.

Q. And you just dealt between those four companies?

A. Yes, three or four on nails and wire.

Q. But for the second, third and fourth years you can not state definitely any company from which you secured your goods?

A. No, sir.

Q. Coming to the fifth year, can you name any company?

A. Why, no; if I had that kind of a memory I wouldn't be here; I would be away up in G.

Q. For the sixth year can you name any?

A. I cannot specify any year.

Q. I am asking it that way because you cannot tell me what year you went into business. If you can tell me what year you went into business?

A. What year I went in business?

Q. What year you began purchasing nails.

A. I began purchasing nails about eight years ago.

Q. What year was that?

A. Well, that was about 1906.

Q. About 1906. Did you begin in January, 1906?

A. I couldn't tell you; I don't remember.

Q. Did you begin in July?

A. I don't know, or I would tell you.

Q. Can you tell me any nearer than that it was some time in 1906?

A. That is right; I do not remember what time it was.

Q. You are sure that you began before 1907?

A. I might have been, but I am not sure; no, I just say it is about that.

Q. About 1906 or 1907 you began?

A. Somewhere along there, yes.

Q. In 1907, assuming you were then in business, what different companies did you purchase wire products from?

A. First one and then the other of those four companies.

Q. You mean in rotation?

A. No; whoever was the lowest man would get the business.

Q. It was just among those four companies?

A. Yes.

Q. You never purchased outside of those four companies?

A. Yes, I told you I bought 4,000 kegs of nails from the American Steel & Wire Company.

Q. Is that the only purchase you ever made outside of those four companies?

A. The only purchase in that line, yes.

Q. Now, coming down to 1913 can you tell me from what different companies you purchased in 1913?

A. From the Atlanta and the Gulf States.

Q. The Gulf States is the company that is always changing its name?

A. Yes.

Q. And in the hands of a receiver most of the time?

MR. REED: That is not fair to them, Mr. Colton.

MR. COLTON: Well, he said yes.

THE WITNESS: I could not tell you; I don't know.

By MR. COLTON:

Q. What percentage did you get from the Atlanta Steel Company this last year?

A. Oh, I expect about 60 per cent.

Q. I believe you stated the distance of the Atlanta Steel Company from your district?

A. I think the railroad mileage is 138 miles.

Q. What is the distance of the Gulf States Company from your works?

A. Their mill or their office?

Q. Their mill.

A. The mill I think is 80 miles.

Q. And you got about 40 per cent. from them?

A. Yes.

Q. Can you give what different companies you got from in 1912?

A. No, sir; I could not.

Q. In 1913?

A. I just gave you 1913.

Q. I beg your pardon. In 1911?

A. No, sir.

Q. Back of 1913 you cannot give definitely any of the companies from which you purchased, can you?

A. No, sir.

Q. How long have you been purchasing? You stated a moment ago that you had sold more or less of the Atlanta since they have been in business; is the same thing true of the Gulf States and Southern Companies, since they have been in business?

A. I generally ask quotations, and if their quotation is the lowest, I give it to them. When I run short I ask for quotations again. These parties, both of them, come right into my territory.

Q. Do you make out your contemplated requirements for a certain period of time?

A. No. For instance, if I want to buy 5,000 kegs I will ask for quotations.

Q. What year did you go into the steel bar business?

A. About eight years ago.

Q. Would that be about 1906 or would it be 1907?

A. It would be about 1906.

Q. From what different companies did you get quotations on steel bars in 1906?

A. That would be pretty hard to say.

Q. Can you recall any company from which you got quotations on steel bars in 1907?

A. No, sir. Why, no, I could not remember that far back. I don't remember how many pairs of shoes I bought last year.

Q. In 1907 can you name any company from which you secured quotations, in 1907, on steel bars?

A. No particular one; I don't know.

Q. 1908?

A. I couldn't tell you; I don't remember.

Q. 1909?

A. I couldn't tell you.

Q. 1910?

A. No; I do not know any specified mills. I would ask

for quotations from all of the mills when I was ready to buy.

Q. And in 1911?

A. The same.

Q. And in 1912?

A. No, sir.

Q. In 1913?

A. Well, I would say, as I said before: I would ask all of those mills, but I do not recall any specific mills.

Q. You do not recall any single mill from which you got quotations in 1907?

A. Yes.

Q. Name them. That is what I have been asking you.

A. I could not exactly tell you what mill it was, but I got quotations from all those different mills that I gave to you; but to say the date, I could not tell you.

Q. Can you name the mills from which you recall receiving quotations in 1913? That is what I have been asking you to do right along.

A. Well, the Atlanta—you have got to 1913 now—and the Gulf States; the Inland, the T. C. & I., the Cambria and Jones & Laughlin.

Q. Have you given to any one company the larger percentage of your business?

A. Not in steel bars; no, sir.

Q. You divided your business in steel bars?

A. Yes.

Q. You have not given any of it to the United States Steel Corporation?

A. The T. C. & I.

Q. What percentage?

A. About 20 per cent.

Q. When did you make a purchase of them?

A. When did I?

Q. Yes.

A. Well, all during the year, off and on.

Q. All during this last year?

A. Yes.

Q. What is the latest purchase you made from the T. C. & I.?

A. Why, yesterday.

Q. What price did they let you have it for yesterday?

A. $1.45 f. o. b. Birmingham. That is the base price.

Q. That is the base price, $1.45 f. o. b. Birmingham?

A. Yes.

Q. Did you make any other purchase yesterday in steel bars?

A. No, sir.

MR. REED: By "yesterday" of course you mean Saturday?

THE WITNESS: Saturday, yes; yesterday was Sunday.

By MR. COLTON:

Q. What tonnage did you buy from them Saturday?

A. Just a few bars; I don't recall the exact tonnage. In fact, it has not come in yet.

Q. Your knowledge of the pipe business of course is limited to these last two years?

A. Yes.

Q. From what company have you bought your largest purchases of pipe?

A. The La Belle.

Q. What percentage have you purchased from them?

A. Practically all of it.

Q. Have you purchased from any other company?

A. The National Tube Company.

Q. Well, you say you only got a couple of cars?

A. That is all.

Q. That was just a pick-up purchase, wasn't it?

A. Well, their man was in there and I got a price, and I bought it.

Q. When did you make that purchase?

A. I don't know how many years ago it was.

Q. Did you purchase from the Tennessee Company before it was acquired by the United States Steel Corporation, bars?

A. Yes.

Q. Did you get quotations from the Carnegie and the Illinois Steel Company before the acquisition of the Tennessee Coal & Iron Company?

A. Yes.

Q. The Tennessee Coal, Iron & Railroad Company and the

Carnegie Company and the Illinois Steel Company were in competition with one another for your business in bars, were they not?

A. Yes.

Q. That is, prior to the acquisition of the Tennessee Company by the United States Steel Corporation?

A. Yes.

Q. In respect to your business, there has to be a profit for you in the nature, more or less, of a commission, and then another profit for a jobber?

A. Yes.

Q. Before it reaches the consumers?

A. Yes.

Q. And you are aware that the United States Steel Corporation maintains warehouses in various portions of the United States?

A. Yes.

Q. And distributes its products directly to the consumer in many cases?

A. Yes.

Q. You are familiar with that policy in that respect?

A. Yes.

Q. And to that extent they have ceased to use the general jobbers as distributers of their products—to a certain extent that is true, is it not?

MR. REED: You are asking for his own knowledge?

MR. COLTON: I will strike that out. I do not think he would know that.

By MR. COLTON:

Q. From what company have you purchased your structural shapes?

A. The Eastern Steel Company.

Q. Entirely?

A. Entirely; yes, sir.

Q. You have acted practically as their agent, have you not?

A. I buy the stuff, yes.

MR. COLTON: That is all.

J. C. FULFORD

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live, Mr. Fulford?

A. Albany, Georgia.

Q. What is your occupation?

A. I am secretary, treasurer and manager of the Albany Mill Supply Company.

Q. How long have you been secretary and treasurer of that company?

A. Seven years.

Q. During that time have you had charge of the purchase of the steel supplies that that company has made?

A. Yes, sir.

Q. You buy sheets, I believe?

A. Yes, sir.

Q. Sheet steel?

A. Sheet steel; yes, sir.

Q. And you buy pipe?

A. And pipe.

Q. About what tonnage of sheet steel do you buy annually?

A. It varies a little according to business conditions. I imagine, however, that it averages 250 to 300 tons a year.

Q. And during the seven years that you have been buying, what percentage of your sheet steel have you bought from the American Sheet & Tin Plate Company?

A. Not any.

Q. Not any at all?

A. No, sir.

Q. Do you buy on a competitive basis?

A. Yes, sir.

Q. Do you ask quotations from different mills before you buy?

A. Yes, sir.

Q. Do you ask quotations of all the manufacturers, or only from some of them?

A. I don't know about all; from about six or eight of them. We ask from enough to be satisfied that we are getting the right price.

Q. Tell us the names of some of those to whom you apply for quotations.

A. The Youngstown Sheet & Tube Company, of Youngstown, Ohio; the Deforest Sheet & Tin Plate Company of Niles, Ohio; the Wheeling Corrugating Company of Wheeling, West Virginia.

Q. And Berger?

A. The Berger Manufacturing Company of Canton, Ohio.

Q. Are there any others from whom you have been getting quotations?

A. Yes, sir; I think there are a few more of them, but I cannot remember their names at the moment.

Q. How about a concern at Ashland?

A. Yes; that is the Jobe Iron & Steel Company; and then the Apollo Steel Company, too.

Q. This Jobe Company is at Ashland, Kentucky, is it?

A. Yes.

Q. And the Apollo Company is near Pittsburgh?

A. Yes.

Q. That is a new concern, is it not?

A. That is a new concern, yes.

Q. How about the quotations that you have been getting on sheets from these six or seven concerns that you have named: Do they vary or are they all alike?

A. They vary to some extent. There is not a big margin of difference.

Q. About what range of variation would you get—how many dollars per ton?

A. I would say in the corrugated galvanized roofing—that is what we buy principally from those manufacturers, it varies anywhere from five to twenty cents a square.

Q. That is 100 pounds, is it?

A. No, sir; that is a square. It sells by the square—not

so much a ton. A square of it weighs about 77 pounds in the 29 gauge that we buy. The other sheets, the flat sheets that stacks are made of, and tanks, and that class of work, are bought by the pound. We use a very small portion of them in comparison with the roofing sheets.

Q. Your principal sheet purchases are of corrugated?

A. Corrugated roofing.

MR. COLTON: Will you ask him about the gauges, Mr. Reed?

By MR. REED:

Q. What gauges do you buy?

A. 28 and 29 gauge.

Q. Has that variation of quotations been the rule right along since you started to buy?

A. Yes, sir.

Q. When did you get your last quotations on sheet roofing?

A. About two weeks ago.

Q. How many bidders were there?

A. I cannot say definitely. I think five or six different mills.

Q. Were any two of the prices alike?

A. No, sir; I don't remember that there were. I think they were all different.

Q. At this time, Mr. Fulford, can you remember any instances where all of the quotations that you got from these competing mills were alike?

A. No, sir.

Q. Coming to pipe, now: about how many tons of pipe do you buy in a year?

A. That also varies according to the business conditions. I would say for the last three years we have bought 500 to 1,000 tons a year.

Q. And from what companies have you been getting quotations on pipe?

A. We have been getting them from the National Tube Company, the Mark Manufacturing Company, the Youngstown Sheet & Tube Company, the Harrisburg Pipe and Pipe Bend-

ing Company, the Central Tube Company and the Republic Iron & Steel Company.

Q. Did you get any from the La Belle Steel Company?

A. Yes, sir; we have had quotations from them.

Q. In 1913, what percentage of your pipe purchases were from the National Tube Company?

A. I would say from 25 to 40 per cent. I could not say exactly. Somewhere along there.

Q. Prior to 1913 what percentage of your pipe did you buy from the National Tube Company?

A. In 1912 possibly ten per cent. of them. Before that none that I remember of.

Q. You had not bought any from them until 1912?

A. Not that I remember.

Q. Have you found competition in pipe?

A. Yes, sir.

Q. Is it keen or otherwise?

A. Yes, sir; it is keen.

Q. Do the quotations that you get on pipe vary?

A. Yes, sir; we have had better prices from some than we have gotten from others.

Q. How long has it been so, that prices have varied in that way?

A. It has been so ever since we have been buying.

Q. Do salesmen in both sheets and pipe visit you?

A. Yes, sir.

Q. Trying to get your orders?

A. Yes, sir.

Q. Has that been so throughout this time?

A. Yes, sir.

Q. Throughout the seven years?

A. No, sir; not throughout the seven years. If you are speaking of pipe, we have not been buying pipe from the manufacturers for more than three years; about three years.

Q. You bought from jobbers before that?

A. From the Crane Company before that, principally. Our business was small, and did not justify buying by carloads or in quantities.

Q. It is just the last three years that in pipe your business has become big, is it?

A. Yes.

Q. But as to sheets that has been the case?

A. No, sir; that has been about three years, too.

Q. You bought sheets from the jobbers prior to three years ago?

A. Yes; to some extent, not very largely.

CROSS EXAMINATION.

By Mr. Colton:

Q. Do you know to what extent the Crane Company handles the pipe of the National Tube Company?

A. No, sir; I do not. I know that they handle some of it, but I don't know how much.

Q. You are not aware that the Crane company very largely dealt in the goods of the Corporation, then?

A. I know they buy them, but I don't know to what extent they get them.

Q. Then, when you were estimating the amount of goods you got from the National Tube Company, you were not counting the Crane Company as the National Tube Company because you did not know what percentage of the goods you got from the Crane Company came from the National Tube Company indirectly, did you?

A. No, sir. Up to this time, though, we had not bought any pipe from the National, while we were buying from Crane.

Q. Not direct from the National Tube Company?

A. No, sir; through the Crane Company for four years. The last three years we bought directly from the mill.

Q. Have your purchases of sheets always been so insignificant as about 250 tons?

A. Yes; that is about as large as they have ever got.

Q. What year did you go into the sheet business?

A. We have always sold them in a way; that is for seven years that I have been there.

Q. I did not catch the business that you are in. Are you a jobber?

A. A jobber of mill supplies, yes.

Q. And the gauges in which you deal in sheets have been corrugated sheets 28 and 29 gauge?

A. Yes; and also flat sheets. They run 10, 12, 14 and 16 gauge.

Q. The flat sheets you buy are in very small amounts, I understand?

A. Yes.

Q. Compared with your purchases in the other sheets?

A. Yes, sir.

Q. What was the first year you purchased corrugated sheets of the gauges 28 and 29?

A. I think in 1910 was the first time we bought from the manufacturer direct.

Q. What company had you been purchasing from prior to that?

A. From some jobber—Conkling Tin Plate & Metal Company and some of those people.

Q. Had you been purchasing any from the Crane Company prior to that?

A. No, sir.

Q. Then, so far as your dealing with the mills is concerned, both in respect to pipe and sheets, it only goes back to about 1910. Is that correct?

A. Yes, sir; that is right.

Q. In respect to sheets does it go back to the beginning of 1910?

A. Yes; I think that is about when we started, 1910, buying carloads of sheets.

Q. What different companies did you get quotations from in 1910?

A. On sheets?

Q. Yes; on corrugated sheets?

A. The ones I have just mentioned there.

Q. Let us have those you now recollect having gotten quotations from in 1910, if you do recollect any?

A. The DeForest Sheet & Tin Plate Company at Niles, Ohio; the Wheeling Corrugating Company at Wheeling, West

Virginia; the Berger Manufacturing Company, at Canton, Ohio. I do not know of any others right at this time.

Q. That is all you can recollect for the year 1910?

A. Yes.

Q. Take the year 1911, and give the different companies from whom you got quotations?

A. About the same.

Q. And that is all that you can recollect for 1911?

A. Yes.

Q. For 1912 give the different companies.

A. We bought principally in 1912 from the DeForest Sheet & Tin Plate Company.

Q. I was asking as to those from whom you got quotations, to the best of your recollection.

A. We got quotations from all of those companies that I mentioned.

Q. Suppose, so that you will not make any mistake about it, you mention now as many as you can from whom you received quotations in the year 1912?

A. I have just named them.

Q. That is all you can recollect?

A. The Jobe Iron & Steel Company; we got quotations from them; and the Youngstown Sheet & Tube Company.

Q. In 1912?

A. Yes.

Q. From what company did you make your purchases in 1912?

A. Principally from the DeForest Sheet & Tin Plate Company; some from the Berger Manufacturing Company.

Q. Is that true also of 1911?

A. Yes, sir; and some from the Wheeling Corrugating.

Q. Is that true also of 1911?

A. Yes, sir; and some from the Wheeling Corrugating Company in 1911.

Q. Is that true also of 1910, that the bulk of your purchases came from the DeForest Company?

A. No, sir; I think from the Wheeling in 1910. We bought more from them.

Q. In 1913 from what company has the bulk of your purchases come?

A. From the DeForest Sheet & Tin Plate Company.

Q. Have you made any purchases from the American Sheet and Tin Plate Company?

A. No, sir.

Q. At any time?

A. No, sir.

Q. Did you solicit quotations from them in 1913?

A. No, sir.

Q. Did you get quotations from them in 1913?

A. No, sir.

Q. Did you solicit quotations from them in 1912?

A. We never had any quotations from them.

Q. You have never had any quotations from the American Sheet & Tin Plate Company?

A. No, sir.

Q. Do you buy any iron pipe, or were you speaking of steel pipe when you spoke of your tonnage?

A. Steel pipe.

Q. Entirely steel pipe?

A. Yes, sir.

Q. Take the year 1910: What manufacturers did you get quotations from in 1910, in pipe?

A. The Mark Manufacturing Company and, I suppose, the National Tube Company, although I do not remember definitely.

Q. Just give us what you remember.

A. The Youngstown Sheet & Tube Company; I know that we had quotations from them; the Harrisburg Pipe and Pipe Bending Company.

Q. Do you recall that definitely?

A. Yes, sir; those three I do.

Q. Those are the only three you do recall definitely?

A. Yes; those are the only three that I remember of in 1910.

Q. To which one of those three did you give your business?

A. It was divided up between the Harrisburg Pipe & Pipe Bending Company and the Mark Manufacturing Company.

Q. About equally?

A. I cannot say definitely. We bought everything up to four inches from the Harrisburg Pipe & Pipe Bending Company. That is as large as they make. I suppose they got the bulk of it. I imagine so.

Q. Of that class of goods they got your entire business, then, up to four inches?

A. Up to four inches principally so, yes.

Q. What class of goods did you get from the Mark Manufacturing Company?

A. Pipe.

Q. I know; but what size?

A. The other sizes; some small pipe.

Q. Other sizes up to what size? From what size to what size?

A. From four and a half to eight inches.

Q. You do not deal in the sizes from 12 to 24 inches?

A. No, sir.

Q. What is the largest size you deal in?

A. Eight inches. We have bought ten inch, at times.

Q. But generally speaking——

A. Eight inches is the largest we carry.

Q. You deal in the small size pipe?

A. Yes; principally.

Q. In 1911 from what different companies did you get quotations on pipe?

A. From the National Tube Company, the Mark Manufacturing Company, the Republic Iron & Steel Company, the Harrisburg Pipe and Pipe Bending Company, the Central Tube Company. I believe that is all.

Q. From what company did you make the bulk of your purchases in 1911?

A. From the Mark Manufacturing Company.

Q. What percentage did you get from the Mark Manufacturing Company in 1911?

A. Ninety per cent., I would say; about that, approximately.

Q. And in the preceding year I neglected to ask you the

percentage you got from the Mark Manufacturing Company.

A. That was divided up in such a way that I could hardly tell, because we were buying from them and the Harrisburg Pipe & Pipe Bending people together. I would say 50-50, or something like that. That is as near as I can come at it.

Q. How many quotations did you get from the National Tube Company in 1911?

A. I could not say. We got them regularly whenever they were gotten out.

Q. Every time they were gotten out?

A. Every time there was a change in price. That is the only time we got them.

Q. You mean every time they changed their price they would send you quotations?

A. Yes; they would send in revised prices when the market changed.

Q. When the market changed they would send revised prices to you?

A. Yes.

Q. And would not the others send revised prices about the same time?

A. Oh, yes; yes, sir.

Q. You do not recall how often the market price changed during the year 1911?

A. No, sir; it changed several times, but I don't remember distinctly how many.

Q. In 1910 do you recall how many times the market price changed?

A. No, sir; I could not say. I think there were very few changes, according to my memory, in 1910.

Q. In 1910 the price was very much more steady than in 1911?

A. That is my recollection of it, yes.

Q. And it was very much more steady in the year 1912 than it was in 1911?

A. I could not say positively. I do not think it was. I think there were a good many changes in 1912.

Q. And before 1910 you did not get these quotations direct from the manufacturers?

A. No, sir.

Q. In 1913 from what different companies have you gotten quotations?

A. From all of the ones I just mentioned as to 1911. Do you want them over again?

Q. No, not if they are the same ones.

A. The same people.

Q. From what companies have you purchased the bulk of your supplies in 1913?

A. From the Mark Manufacturing Company.

Q. I neglected to ask you that same question for 1912.

A. 1912, I said 90 per cent., as well as I remember.

Q. In 1911 you said 90 per cent.; would it be 90 per cent. for 1912 too?

A. Well, let me see; in 1911 it was not 90 per cent.; it was about 50-50 in 1911.

Q. You said 50-50 in 1910?

A. Yes, as I say, it was; I got mixed up a little bit. In 1912 it was about 90 per cent.

Q. In 1912 it was about 90 per cent. from the Mark people?

A. Yes.

Q. And in 1913 it is 90 per cent. from the Mark Company?

A. No, sir; it was about 60 to 75 per cent., I guess; somewhere along there, for 1913.

Q. Well, for the whole period you have bought the bulk of your pipe from the Mark Manufacturing Company?

A. From the Mark Manufacturing Company principally.

Q. You have established close relations with that company in respect to your purchases, have you not?

A. Yes.

Q. Now, in 1911 what did you get from the National Tube Company?

A. In 1911 we bought some pipe; I don't remember how much. I think we did.

Q. Can you give the percentage?

A. No.

Q. Can you give the percentage for 1912 from the National Tube Company?

A. I do not think it was over ten per cent. in 1912. The other 90 per cent., I think, we gave to the Mark Manufacturing Company.

Q. To the best of your recollection it was divided between the National Tube Company and the Mark Company in 1912?

A. Yes.

Q. Now, did you buy from the National Tube Company a larger size pipe than you bought from the Mark Company? Don't you buy your ten-inch pipe from the National Tube Company, or do you recollect?

A. No, sir. The Mark Company makes the same range of sizes, so far as I know. I know they do up as large as we buy.

Q. Up as large as ten-inch?

A. Yes.

Q. You do not buy any beyond ten, do you?

A. I think they make up to 24; I do not know about that. It is large pipe.

Q. You have not any reason to get knowledge of that?

A. No, sir.

Q. I do not know that you answered my question as to whether you divided your tonnage between the National Tube Company and the Mark Company in 1912.

A. Yes; as I say, in 1912 we bought 90 per cent. from the Mark people and about 10 per cent. from the National Tube Company—didn't I?

Q. Yes. And in 1913 what different companies have you purchased from?

A. The Mark and the National Tube Company.

Q. Those two only?

A. Yes.

Q. Now, in 1910 what was your tonnage?

A. I could not say. I think maybe 300 to 500 tons in 1910; not over 500, I am sure.

Q. In 1911 what was your tonnage?

A. Maybe 500 to 600 tons.

Q. And in 1912 what was your tonnage?

A. In 1912 it was about between 900 and 1,000 tons.

Q. And in 1913?

A. I think it has been over 500 tons in 1913.

Q. Well, on a general average, it would not average much over 500 to 600 tons, would it?

A. No, sir.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

SAMUEL C. DINKINS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. I live in Atlanta.

Q. What is your occupation?

A. Wholesale hardware business.

Q. What is the name of your company?

A. The Dinkins-Davidson Hardware Company.

Q. How long have you been connected with that company?

A. Fourteen years.

Q. What is your present office in it?

A. President.

Q. How long have you been president?

A. Seven years, I believe. It has been incorporated seven years; it was a partnership before that.

Q. And you have been engaged in the same business?

A. Yes.

Q. As either partner or president of the corporation for 14 years?

A. Yes.

Q. Have you been familiar with the buying of steel products during the whole of that 14 years?

A. Yes.

Q. You buy wire, I believe?

A. Yes.

Q. Wire products like nails and fencing?

A. Yes.

Q. About how many tons per year do you buy?

A. 1,200 to 1,500 tons.

Q. And in corrugated sheets I believe you buy some tonnage?

A. Yes.

Q. How many sheets would you buy in a year?

A. About 150 tons.

Q. And in bars and hoops and bands what tonnage would you buy?

A. 150 tons; something like that.

Q. About 150 tons a year?

A. Yes.

Q. Now, taking up first the wire products which you use, do you buy those on a competitive basis?

A. Yes.

Q. And from what companies do you get quotations?

A. We get quotations from the Atlanta Steel Company and a concern over in Birmingham; they have changed their name so much that I don't remember what it is. It was the Southern Steel Company.

Q. It is now the Gulf States, is it not?

A. Yes.

Q. And what others?

A. The American Steel & Wire Company and the Pittsburgh Steel and the Youngstown.

Q. The Youngstown Sheet & Tube Company?

A. Yes.

Q. The Cambria Steel Company?

A. Cambria, yes.

Q. From which of those companies that you have named do you obtain the largest part of your wire products?

A. The Atlanta Steel Company, I should think.

Q. That is located here in this city, is it?

A. Yes.

Q. About what percentage of your purchases of wire products comes from the American Steel & Wire Company?

A. Well, it will vary. Some years it will amount to more than in others.

Q. Between what percentages would it range?

A. That includes all kinds of wire products; is that it?

Q. Yes.

A. Oh, I imagine something like 40 per cent.

Q. About 40 per cent. would be an average?

A. Yes.

Q. About what percentage do you get from the Atlanta Steel Company?

A. Well, about 40 per cent. The Atlanta Steel Company does not make as big a variety of wire products as the American Steel & Wire Company.

Q. Then the balance of your purchases are scattered among the other four of them, are they?

A. Scattered among the other four, yes.

Q. From what competing companies do you get quotations on sheets, corrugated sheets?

A. Corrugated sheets?

Q. Yes.

A. Well, we get from so many—the Portsmouth Steel Company and the Brier Hill—there are so many I cannot recall them all now.

Q. Let me suggest a few of them: the Ashland Steel Company?

A. Yes.

Q. The Youngstown Sheet & Tube Company?

A. Yes.

Q. The American Rolling Mills?

A. Yes.

Q. And the La Belle Steel Company?

A. Yes.

Q. And Fannin & McCullough?

A. Yes, we have had quotations from them.

Q. And a number of others, I suppose?

A. Yes.

Q. Do you get quotations from the American Sheet & Tin Plate Company?

A. Yes.

Q. Now, on bars, hoops and bands, what companies quote to you on those?

A. You mean steel bars, now?

Q. Yes, I am speaking only of steel products now.

A. Yes; the Cambria, the Atlanta Steel Company—they make those things—and a concern over in Birmingham; I cannot recall the name now.

Q. It is not the Gulf States?

A. No.

Q. Another concern?

A. Another concern.

Q. Is that the Southern Rolling Mill Company, or something like that?

A. Something like that. And the Carnegie Company.

Q. Do the Knoxville Iron Works ever quote to you?

A. Yes, they quote, but they are manufacturers of bar iron instead of steel. That is the reason I asked the question.

Q. Do they make steel too?

A. I think they make steel now; but that is a recent thing, that they have been making steel.

Q. And the Tennessee Coal, Iron & Railroad Company?

A. The Tennessee Coal, Iron & Railroad Company, yes, we have had quotations from them.

Q. Now, on these different products which you have mentioned do you find the quotations vary or are they all alike?

A. They vary.

Q. How long has that been so?

A. It has always been so since I have been buying that stuff.

Q. Do you get the benefit of genuine active competition in each of those products?

MR. COLTON: Just a moment. I object on the ground that the witness is not shown to know what the relation may be between the different companies, between the United States

Steel Corporation and its alleged competitors, and that he is not competent to express an opinion on that subject.

By Mr. Reed:

Q. Now, will you answer the question, my question?

A. May I have the question again?

(The question was repeated by the stenographer.)

The Witness: Yes.

By Mr. Reed:

Q. Do the salesmen come to see you?

A. Yes.

Q. And solicit your business?

A. Yes.

Q. How often?

A. Oh, some of them come oftener than others, from 30 to 60 to 90 days.

Q. Is there ever a week that passes without a salesman of one of those companies coming to see you?

A. No, I don't think so.

Q. Do you buy other products than steel?

A. Do I buy what?

Q. Are your purchases confined to steel and iron exclusively, or do you buy other kinds of material for your business?

A. I buy some other stuff, yes.

Q. How has the trend of prices in steel during the 12 or 13 years that you have been buying, compared with the trend of prices in other materials and other commodities?

Mr. Colton: Just a moment; I object on the ground that that calls for a conclusion upon a state of facts not disclosed to the court, and on the further ground that the witness is not shown to be competent to answer such a general question.

(The question was repeated by the stenographer.)

Mr. Colton: I object further to the question on the ground that it speaks generally of steel, when the witness is shown to only be familiar with a very few of the various steel products.

The Witness: The prices have not varied as much as other commodities.

By Mr. Reed:

Q. Has the trend been upward or downward on steel?

A. I would say it has been downward.

Q. How has it been in other commodities?

A. Sometimes they were up and sometimes down, varying.

Q. There has been very much more irregularity on the others, has there?

A. Yes.

Q. What has the general trend been, in the prices of other commodities? Take other metals, or almost anything else that you buy; do they cost more than they did twelve years ago or less?

A. They cost more.

Q. Is that so with steel?

A. No, I think not.

Mr. Reed: I think that is all. Cross examine.

CROSS EXAMINATION

By Mr. Colton:

Q. What is your opinion as to the American Steel & Wire Company holding the umbrella for its various so-called competitors?

A. Well, I think the American Steel & Wire Company has been very conservative, and in hard times instead of cutting the life out of prices they have held them; in other words, they will shut down mills and let the independent fellows run.

Q. They shut down mills and maintained prices to a considerable extent?

A. To an extent. In hard times their prices usually declined, but not as much as in other commodities.

Mr. Reed: Not as much as they would if they kept all the mills running?

The Witness: No.

Mr. Colton: I object to your interrupting the cross examination, Mr. Reed.

By Mr. Colton:

Q. Of what year were you speaking when you said twelve years ago?

A. I said fourteen years ago, did I not?

Q. Just a moment ago, in answer to Mr. Reed, you spoke of twelve years ago. Did you have any particular year in mind?

A. Twelve years ago would be 1902.

Q. Was that the year you had in mind when you answered that question?

A. When I said prices were higher then than they are to-day?

Q. Yes.

A. That is the year I had in mind, yes.

Q. Take the year 1900, after Gates made his famous cut of $20 a ton. Do you know what price bars were at that time?

A. No, sir; I don't know what the price of bars was.

Q. Don't you know the price of bars was then higher than it was in 1910?

A. Bars?

Q. Yes.

A. I don't know.

Q. You don't know the price one way or the other, do you? You do not know what the price was in the fall of 1900?

A. No, sir. I could not say exactly; but I do know the price of nails and wire was higher.

Q. I am asking about bars. We will come to the other later.

MR. REED: You are asking about bars?

MR. COLTON: Yes; at the present time.

By MR. COLTON:

Q. In regard to nails, do you know what you were paying the Consolidated Steel & Wire Company for nails before the American Steel & Wire Company was formed?

A. I could not tell you positively.

Q. Did you not pay them about $1.25?

A. Something like that.

Q. Have you ever purchased from the American Steel & Wire Company as cheaply as that since that?

A. No, sir.

Q. Have you ever purchased from any competitor of the American Steel & Wire Company as cheaply as you did then?

A. No.

Q. Take the question of sheets: Were you purchasing any sheets before the American Sheet Steel Company was formed?

A. No. We are new dealers in the sheet market.

Q. How long have you been purchasing sheets?

A. A couple of years.

Q. Two years?

A. Yes.

Q. What was the first year you purchased?

A. I think it was two years ago.

Q. That is, for the year 1912?

A. Yes.

Q. From what different companies did you purchase sheets in 1912?

A. I could not tell you positively.

Q. From what different companies that you now recollect, as a matter of recollection, did you get quotations in 1912?

A. From the Brier Hill—I keep a record of those things on my desk, but I could not tell you them offhand.

Q. That is all you remember offhand?

A. I remember the Brier Hill, yes, and the Portsmouth Steel Company.

Q. Do you remember which of those you purchased from?

A. The Brier Hill, I think, in 1912.

Q. Did you get all your sheets from them?

A. I would not say positively.

Q. Your sheets are comparatively small in comparison with your wire products?

A. Yes.

Q. And nothing that you have said in regard to competition is intended to apply to anything in regard to sheets prior to the year 1912, when you began to purchase?

A. That is right.

Q. Coming back to bars: from what different companies did you get quotations on steel bars in 1901?

A. Well, I could not tell you that positively.

Q. Did you get quotations from the Illinois Steel Company in 1901?

A. I have no doubt that we did, but I could not tell you positively.

Q. Take the year 1900: Did you get quotations from the Illinois Steel Company in 1900?

A. I suppose so. We got them from everybody that makes steel, pretty nearly every week.

Q. I want to get your recollection on that, the best you can give.

A. Yes.

Q. Do you have any distinct recollection as to whether you secured any quotations from the Illinois Steel Company in 1900 on bars?

A. No, sir; I have not.

Q. Do you have any distinct recollection as to securing quotations from any company on bars in 1900?

A. No, sir; no particular company except the Knoxville Iron Works. I remember that.

Q. That was in iron bars?

A. Iron bars, yes.

Q. Were you purchasing steel bars in 1900?

A. Oh, yes. We purchased steel bars.

Q. Did you get quotations at times from the Illinois Steel Company between 1898 and 1901,—whenever you went in business—I don't want to go back of the period about which you have testified.

A. How is that?

Q. Between the time that you began business, which was in what year?

A. I suppose you are referring to business in Atlanta. I was in the hardware business before I came to Atlanta, but I am testifying about Atlanta.

Q. Fourteen years ago?

A. Yes. Now will you put your question again?

Q. What year was that that you went in business, as nearly as you can recollect?

A. In November, 1899.

Q. During the years 1899 and 1900 did you, from time to

time, get quotations from the Carnegie Steel Company, the Illinois Steel Company and the National Steel Company?

A. I could not say positively as to the Illinois and the National, but we got quotations from Carnegie and the Cambria.

Q. You remember those distinctly?

A. Yes. We bought steel from them during those years.

Q. When did you first get quotations from the Tennessee Coal, Iron & Railroad Company on bars?

A. I could not say positively. I think it was probably three or four years ago.

Q. Do you know whether you got quotations from them before they went into the United States Steel Corporation?

A. I think not. I don't think we ever had quotations from them until they went into the United States Steel Corporation.

Q. You stated the tonnage you purchased, I believe, in steel bars, but I have forgotten it. Will you state it again?

A. Steel bars?

Q. Yes.

A. About 150 tons.

Q. That is also comparatively small, is it not?

A. That is small compared to the wire and nail product, yes.

Q. Could you give the tonnage you bought in 1901 in steel bars?

A. No, sir; I could not.

Q. Could you approximate it?

A. No.

Q. It was very small, was it not?

A. I imagine so; yes, sir.

Q. How about 1902? Would your answer be the same?

A. Yes.

Q. 1903?

A. I cannot tell you.

Q. 1904?

A. I don't remember so far back.

Q. 1905?

A. I could not tell you.

Q. 1906?

A. No, sir; that is too far back.

Q. 1907?

A. No. I could not tell you.

Q. 1908?

A. I could not say how much it was.

Q. 1909?

A. We got two or three cars of that stuff a month all through the year. It is hard to tell how much tonnage it was. I could not tell you.

Q. I just want to get it approximately. I do not expect to be unreasonable about it.

A. Yes.

Q. 1910?

A. In 1910—that compared, about, with 1912.

Q. Beginning with 1910, you think you bought about 150 tons a year?

A. Yes; we have been buying about 150 tons of steel for years.

Q. But you cannot say how many years?

A. No, sir; I won't say positively.

Q. You are pretty sure of it for the last three years?

A. Yes. Further back than that.

Q. How far back, then, did you get 150 tons?

A. Say for the last six or seven years.

Q. Do you remember any of the quotations you received on bars in the years 1906 and 1907?

A. I could not remember positively. If I had known that you were going to ask those questions I would have brought the invoices with me.

Q. Do you remember what companies you got quotations from on bars in 1906 and 1907?

A. No, sir; I could not say positively.

Q. Could you name any companies from memory that you got quotations from in those years?

A. No, sir; it would be guesswork.

Q. In 1913 from what different companies have you purchased your steel bars?

A. The Atlanta Steel Company and the Cambria, most of them.

Q. Did you purchase from anybody else?

A. Yes; we got some from a concern in Lebanon, Pennsylvania.

MR. REED: The American Iron & Steel Company?

THE WITNESS: No; they make iron. This is another concern, but I don't recall the name of it. There was only one car from them. The balance of it was from the Atlanta Steel Company and the Cambria.

By MR. COLTON:

Q. What percentage did you get from the Atlanta Steel Company?

A. I imagine it was about 25 per cent. from the Atlanta Steel Company.

Q. In 1912 from what different companies did you get your steel bars?

A. We got steel bars from the Atlanta Steel Company in that year.

Q. Anybody else?

A. I think we did. I could not tell you positively, however. No doubt we did.

Q. But you have no recollection as to anybody else?

A. I have a faint recollection, but I would not state positively. I am on the witness stand and I have to be exact. I would not state unless I know what I am talking about.

Q. In 1911, from whom did you get your steel bars?

A. I imagine from the same people.

Q. The same people being the Atlanta Steel Company——

A. The Atlanta Steel Company and the Cambria Steel Company. We have bought most of our steel bars from the Atlanta Steel Company and the Cambria.

Q. The Atlanta Steel Company only manufactures bars up to what size?

A. They manufacture bars up to 1¾ by ½, flats, and 1¼ rounds, I believe it is.

Q. What widths?

A. I said 1¾ flats, by ½, I think it is.

Q. In 1911, did you have sufficient familiarity with the market to notice the very sharp break that occurred in that year in the bar market?

A. It was not much of a break, if I remember correctly.

Q. What is that?

A. I don't remember much of a break.

Q. Do you remember anything about the way the market price of bars moved in 1911?

A. In 1911?

Q. Yes.

A. No.

Q. Do you recollect anything about the way the market price of bars moved in 1910?

A. No.

Q. In 1909?

A. No; except that I know they were higher than they are to-day.

Q. You mean that the price of bars was higher in 1911 than it is to-day?

A. If I remember correctly, yes. The price of bars is very low to-day.

Q. Have you purchased below $1.05 to-day, in bars?

MR. REED: He has not said that he purchased any then at $1.05.

MR. COLTON: I know.

By MR. COLTON:

Q. Have you purchased below $1.12?

A. There is a quotation out of $1.05 plus the commission of $2 a ton, I believe.

Q. That would make it $1.15, would it?

A. No, sir; I said plus; I mean with the commission—beyond that.

Q. With commission?

A. Yes.

Q. What do you mean by that, "with commission"?

A. They give a commission for buying the stuff.

Q. They give you a commission? You do not have to pay the commission?

A. No.

Q. There is a price out now of $1.05? From whom did you get that?

A. That was made by a purchasing agent.

Q. From whom?

A. The Biddle Purchasing Company.

Q. Did that price come to you—$1.05?

A. Yes.

Q. What tonnage?

A. I don't remember the tonnage. I think it was for specified carload.

Q. Just one carload?

A. Yes.

Q. And it was not from any manufacturer?

A. No.

Q. What is the lowest quotation that you received from any manufacturer? That is, steel bars, first.

A. That was steel bars, yes.

Q. What is the lowest quotation that you received from any steel manufacturer?

A. Well, we bought that stuff—we have purchasing agents, and we usually get our prices through those people.

Q. What people?

A. They purchase; they are hired for us at a salary to buy for us.

Q. And they get the quotations?

A. They get the quotations.

Q. And you do not get the separate quotations?

A. I get the quotations from them.

Q. You mean you get the quotations of the different mills from them?

A. No, I do not know what mill made those quotations to them.

Q. They get quotations, and you only have their quotation, which is the lowest quotation they get, whatever that may be?

A. That is right.

Q. And you do not know what other quotations they got on bars?

A. I don't understand you.

Q. You do not know of the different quotations that they received in respect to steel bars, do you?

A. No, I don't.

Q. And you of course do not know what relation those quotations bear to one another, as they are not received by you personally, on steel bars?

A. Those quotations are received by me through my purchasing agent.

Q. Yes, but as I understood you, you stated that they did not come to you personally, that you did not receive the separate quotations, but that you got just one quotation from this concern, whatever it may be?

A. Yes.

Q. Is that correct?

A. I get the quotation from this purchasing agent; yes, sir.

Q. That is the way you have been quoted on bars; is that correct?

A. Not in every case, no, no; I am talking about this particular case.

Q. You are talking about this particular case?

A. Yes.

Q. What is the lowest quotation that you have at any time received from a manufacturer of steel bars?

A. I have not had a quotation recently.

Q. When did you last have a quotation from any manufacturer of steel bars?

A. It has been a month ago, I guess.

Q. About a month ago?

A. Yes.

Q. What was the quotation then?

A. $1.20.

Q. The lowest quotation that has come to you from a manufacturer has been $1.20?

A. No, I will not say that. That is their quotation given to me from my purchasing agent, from the manufacturer.

Q. And you do not know what manufacturer?

A. No, I do not. I could very easily find out by writing.

Q. I do not mean to question that at all; but the lowest one that has come to you direct from the manufacturer, putting it that way, is $1.20?

A. Yes, and I have not made an effort to get that. I think the printed quotation to-day is $1.10.

Q. By "printed quotation" you mean the quotation in the trade paper?

A. The Iron Age, yes; I would not say positively about that, but I think it is.

Q. Do you know what was the lowest printed quotation in 1911?

A. No, I don't.

Q. Do you know what the lowest printed quotation was in 1909, the date of the other break in bars?

A. No.

Q. Do you remember the break in bars in 1909, one way or the other?

A. No; I would have to have a good memory to remember all those things.

Q. And you would have to deal pretty extensively in bars?

A. Yes.

Q. And you have not dealt extensively in bars, I think you said?

A. About 150 tons, as I said.

Q. Now, taking your purchases of wire products, what is your tonnage for 1910, approximately? I do not expect you to be exact.

A. About 1,500 tons.

Q. And in 1911?

A. About the same thing. For the last four or five years it would run practically the same thing.

Q. Now, of your other steel purchases you say you have gotten about 40 per cent. from the Atlanta Company and about 40 per cent. from the American Steel & Wire Company, on an average?

A. That is wire products?

Q. Yes; for the last three or four years.

A. Yes, wire products. Take nails and wire; I have got a bigger percentage from the Atlanta, but he asked me a question there in regard to wire products.

Q. That is what I am talking about too. Now, taking the companies that are outside of the State of Georgia; that is, other than the Atlanta Company, you have gotten about what?

A. I would say about 60 per cent.

Q. It would be in a ratio of 40 per cent. to 20 per cent.? That would be about the proportion that you have gotten from the American Steel & Wire Company?

A. No.

Q. Oh, you mean 60 per cent. from outside the State of Georgia?

A. Yes.

Q. And of that, you have gotten about two-thirds, outside of the State of Georgia, from the American Steel & Wire Company?

A. I think so, yes.

Q. What was the first year that you bought from the Atlanta Steel Company, wire products?

A. I could not tell you positively; the first year they built the plant. I do not remember when that was.

Q. You do not remember when you began purchasing from them?

A. No.

Q. And you have been purchasing the last three or four years from them; is that correct?

A. Yes.

Q. And during the time you have been engaged in business, by far the largest proportion of your business has been in wire products, so far as steel products are concerned; isn't that true?

A. Yes.

Q. Will you give the different companies that you now recall having received quotations from in 1902 on wire nails?

A. In 1902?

Q. Yes.

A. I am positive I received quotations from all of these companies that I have named; I am sure of it, but I am not positive of it.

Q. Just name those from whom you did receive quotations in 1902, that you recall.

A. 1902?

Q. Yes.

A. I received quotations from the Atlanta Steel Company and the American Steel & Wire Company.

Q. Was the Atlanta Steel Company making nails in 1902?

A. Did you say 1902?

Q. I did, yes.

A. Well, I will go back. I understood you to say 1912. Didn't you say 1912?

Q. Well, I meant 1902, anyway.

A. I don't remember that far back; I can't remember.

Q. You can not recall?

A. No, not whom I bought from.

Q. In 1903 from what companies did you receive quotations?

A. Well, as I say, I could not say exactly without reference to the books.

Q. Would your answers be the same for each of the different wire products that you purchase?

A. Yes.

Q. In 1904?

A. Yes.

Q. In 1905?

A. Oh, I don't remember. Of course I remember that there has not been a year since I have been in business that we have not bought some of that stuff from the American Steel & Wire Company, but we are buying from outsiders all the time; I do not remember those people, they are changing about.

Q. And in 1905 could you tell what proportion you bought from the American Steel & Wire Company?

A. No, I could not.

Q. That is the only company that you do positively recollect that you bought from in 1905?

A. What company? Do you mean the American?

Q. Yes; the American Steel & Wire Company.

A. Yes.

Q. Would your answer be the same for 1906?

A. Well, I don't know. That is a hard question. I would like for you to put me off until to-morrow and let me come back with the exact facts. Will you do that?

Q. I am willing to take your memory. In 1907?

A. It seems to me that is a foolish question. I can not remember these things.

Q. You do not recall anything in 1907?

A. What's that?

Q. You don't recall any companies in 1907 that you purchased from, other than the American Steel & Wire Company? Is that what you mean by saying it is a foolish question?

A. You are asking me things that I don't think it is right to ask a man, to draw on his memory that far back, as to who, exactly, he bought from.

Q. I am asking for your best recollection, as to whom you bought from in 1907.

A. A man can remember a price for a considerable length of time, but he can not remember who made the price.

Q. All right; suppose you give me the price in 1907.

A. I could not give you the exact price, but I will tell you this, that nails are cheaper now than they were in 1907.

Q. But you don't remember what the price was in 1907?

A. Not exactly, no.

Q. And you can not give any prices in 1907?

A. No, I can not give you the exact price.

Q. In 1908 do you recall any manufacturer, other than the American Steel & Wire Company, from whom you purchased?

A. No.

Q. Do you recall any of the prices for 1908?

A. No.

Q. In 1909, would your answer be the same?

A. The same thing.

Q. In 1910?

A. Well, the same thing, I guess.

Q. And in 1911?

A. Oh, yes, the same thing.

Q. And in 1912?

A. I won't attempt to answer a question of that kind.

Q. In 1913?

A. I have answered these questions once, sir.

Q. You refuse to answer from what different companies you purchased in 1913?

A. No, I don't refuse. If you will allow me to go to my books and find out exactly who they were, I will tell you.

Q. I only want your best recollection now; I don't want anything else.

A. I do not propose to guess at it in that way.

Q. And you do not know of your own knowledge?

A. Who I bought from?

Q. Yes.

A. I probably know some of them, but I would not say positively. Here is the point right here, sir. I know I am buying nails and wire from this company and this company, in different years, but I can not tell exactly what year it was that I bought them.

Q. Can not you recall any company from whom you purchased wire nails in 1913?

A. Oh, yes.

Q. Well, give those that you recollect; that is all I am asking.

A. Well, the Atlanta Steel Company, the Cambria Steel Company and the American Steel & Wire Company. Those are three that I am positive I bought nails from in 1913.

Q. That is wire nails. Suppose you take wire.

A. Wire too.

Q. Wire from each of those also?

A. Yes.

Q. From the Atlanta you do not get high grade wire, do you?

A. I don't understand what you mean by "high grade wire."

Q. Are you not familiar with the expression "high grade wire"?

A. Do you mean bed spring wire?

Q. Not necessarily; I mean high grade wire, whatever it is; do you know it?

A. The only wire product we buy is barbed wire and fence.

Q. You buy what are known as the coarser products, anyway?

A. Yes, I guess you might call them that, too.

Q. Do you get fencing from the Atlanta Company?

A. No.

Q. Nails are the only thing you get from the Atlanta Company?

A. Nails and barbed wire.

Q. Barbed wire?

A. Yes; nails and barbed wire fence.

Q. You do not get nails from the Atlanta Company, do you?

A. Yes.

Q. When did you first get barbed wire from the Atlanta Company?

A. We got barbed wire from the Atlanta Company about as early as we did nails; they have been making barbed wire all the time.

Q. I believe you stated you did not know what year they began?

A. No, I don't know positively.

Q. What is the first year that you got any quotations from the Cambria Steel Company?

A. On this class of goods?

Q. Yes, wire products.

A. I would not say positively. They have only been making this class of goods for a few years; wire products. It was the first year that they began to make it, if you know when that was, that we got quotations.

Q. A couple of years ago?

A. I don't know. Is that when they started?

Q. What?

A. When they started to make this class of goods I got quotations.

Q. I believe you stated you had only been buying sheets for how many years?

A. About two years.

Q. Now, hoops and bands: from what companies have you gotten hoops and bands?

A. Well, I do not sell hoops. We get bands from the Cambria and the Atlanta Steel Company.

Q. And that is included within a tonnage of 1,500 tons?

A. Yes, that is included.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. I want to ask you just a word about this price on bars at the present time. You said the price was $1.05 with a $2.00 commission?

A. I would not say positively it is a $2.00 commission. There is a commission beyond. You understand the way these purchasing agents do; we pay them a salary; they get a commission for making the sale, and we get the commission. That is what I meant by a commission.

Q. So that the commission that is paid to them by the maker of the steel really comes to you and amounts to so much off the price?

A. Yes.

MR. COLTON: Is that so much off of $1.05?

MR. REED: That is what I am going to ask him.

By MR. REED:

Q. If your recollection is right as to the commission in this case being $2.00, that would make the net price to you 95 cents per hundred pounds, would it not?

A. No; $1.05 would make the price—yes, you are right, sir. Well, I would not say positively it is $2.00; it might be a dollar a ton. There is a commission beyond. I told you there was a commission beyond.

Q. If it is $1.00 commission, the price is $1.00 per hundred?

A. Yes.

Q. And if it is $2.00, it is 95 cents a hundred?

A. Yes.

Q. And that is a fairly low price for bars?

A. That is as low as I have known.

Q. And to your mind does that indicate that there is a monopoly on bars which keeps the price up to famine heights?

MR. COLTON: I object to that as argumentative.

THE WITNESS: No.

RECROSS EXAMINATION

By MR. COLTON:

Q. Now, this price you got of 95 cents, you did not make any purchase at that price, did you?

A No.

Q. What is the lowest price at which you have purchased?

A. $1.20.

Q. So you have not reaped any benefit from any price of 95 cents, have you?

A. No, but I will on my next purchase, though.

Q. That is, if it is still at 95 cents?

A. Well, the indications are that it will stay at that price, anyway.

Q. And that is the lowest price you have known since 1900, is it not?

A. I think it is.

WARNER H. CAMP

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Camp?

A. Here in Atlanta.

Q. What is your occupation?

A. Manager of the Murray Company.

Q. In what business is the Murray Company engaged?

A. They are manufacturers of cotton gin and cotton-seed oil milling machinery.

Q. How long have you been manager of that company?

A. About two years.

Q. Has the Murray Company plants in other places than Atlanta?

A. Yes, sir.

Q. Where are its plants located?

A. Dallas, Texas and Atlanta, Georgia.

Q. Prior to your becoming manager of the Atlanta plant of that company, what was your occupation?

A. I was general superintendent for the Van Winkle Gin and Machine Company.

Q. For how long?

A. I was general superintendent for about seven or eight years.

Q. Was that Van Winkle Company absorbed by the Murray Company?

A. Yes, sir.

Q. And you were manager of the Atlanta plant of the Van Winkle Company?

A. No, sir; I was general superintendent.

Q. You were general superintendent of their Atlanta plant?

A. Yes, sir.

Q. So that you have been in charge of the Atlanta plant, first of the Van Winkle Company and then, after the absorption, of the same plant of the Murray Company?

A. That is right.

Q. That is, your experience with that plant covers a period of ten years?

A. Probably longer than that, my total experience; but as general superintendent and manager about ten years.

Q. That is, your executive experience dates back ten years?

A. Yes.

Q. During that ten-year period who has been in charge of the purchases of steel that have been used at the Atlanta plant?

A. Properly speaking, our purchasing clerk handles the details of it.

Q. Where is he located?

A. He is located here; and we have one at Dallas.

Q. Is the purchasing clerk here a subordinate of yours?

A. Yes, sir.

Q. Does he do his work under your instructions?

A. Yes, sir.

Q. Does he submit to you the bids that he receives on steel purchases of any consequence?

A. Yes, sir.

Q. And how long have you been familiar in that way with the purchasing of steel at this plant?

A. Well, since I have been manager here, all the propositions that come up for final closing are submitted to me for direction, but prior to that time I handled sometimes the details myself, and sometimes our secretary handled the details, but I was more or less familiar with the deals transpiring in that line.

Q. Your familiarity goes back at least ten years, then?

A. About ten years, yes.

Q. What kind of steel material do you buy for this Atlanta plant?

A. We buy tin plates, black sheets, heavy plates; we buy bars, shapes.

Q. Shafting?

A. Shafting, pig iron.

Q. Do you or do you not find that there is competition for your purchases of these materials that you have named?

A. Well, we think so. We write all the folks that we know in the business when we go to buy anything, or make contracts for it.

Q. How long have you thought so? How long has there been competition for your business?

A. Well, there has been competition ever since I have known the business. Sometimes the competition, as we express it, is fiercer than it is at other times; sometimes it is pretty close together, and sometimes there is a pretty wide range.

Q. Is that determined or affected at all by the general condition of business in the country?

A. I think so.

Q. In periods of depression, when business is scarce, is the competition fiercer than it is otherwise, or less fierce?

Mr. Colton: That is objected to as leading.

The Witness: Our line of business is such that I would not be able to give you an answer just along that line, but I will say this, that our business has been in a progressive age ever since I have been connected with it, and our purchases have increased from year to year, in the respective propositions that we have handled. In some years we do better by buying the stuff than we do in others.

By Mr. Reed:

Q. Do you ask quotations from the different makers of these products?

A. Yes, sir; that is to say, we sometimes get a liking for a certain line of material, and we just go ahead and trade with the folks, if they will renew the old contract, or make them a proposition to do it, and in cases of that kind we do not; but that is just in those particular materials that are adaptable and suitable, and we like, and we do not want to change to something else.

Q. Is most of your purchasing done on a competitive basis or otherwise?

A. I should say the most of it was.

Q. Where it is done on a competitive basis, do you find that the quotations that are made to you by the different makers of steel products vary, or are they all alike?

A. They usually vary.

Q. How long has that been so?

A. Ever since my connection with the business; but the variations have been more or less at different times.

CROSS EXAMINATION

By MR. COLTON:

Q. As to tin plate, taking the year 1903, which I understand is the year you begin to testify about: what tonnage did you purchase in tin plates?

A. Very little.

Q. Could you give me any idea what it was?

A. What little tin plate we bought that year was all from local people. In 1904——

Q. Your tin plate——

MR. REED: One moment, Mr. Colton. Let him finish.

MR. COLTON: I thought he had finished. (To the witness:) Do you want to say anything else?

MR. REED: He said: "In 1904——"

MR. COLTON: I only asked him about 1903, and I would object to his answering anything about 1904 until he is asked about it.

By MR. COLTON:

Q. Do you want to go on?

A. It does not make any difference to me.

Q. In 1903 your purchases in tin plate were comparatively insignificant?

A. Very insignificant; yes, sir.

Q. Is that true generally of all your purchases of tin plate?

A. Of tin plate it was, up until my connection with the Murray Company.

Q. In what year did you first purchase any considerable quantity of tin plate?

A. My company purchased every year for the period of my connection with this plant about one car of tin plate a year.

Q. About a car a year?

A. That is, galvanized sheets, thin stuff; and since my connection with the Murray Company, on account of our line being of steel gin manufacturing material, we use a very large quantity of both galvanized and black sheets.

Q. Coming back to tin plate: What did this carload of tin plate that you purchased include? What kind of material?

A. What I understand you to mean is galvanized plates.

Q. Are galvanized plates tin plates?

A. We do not buy any tin plates. My reference to tin plate is galvanized plate.

Q. You have not bought any tin plate at all, have you?

A. We don't use any tin plate in our goods at all. I understood you to mean galvanized and black sheets.

Q. And when you mentioned tin plate as one of the different products you purchase, what you had in mind was black sheets and galvanized sheets?

A. That is correct.

Q. That is what I was trying to get straight.

A. Yes, sir.

Q. Coming to black sheets; up to the time that you became connected with the Murray Company, your purchase of black sheets and galvanized sheets only amounted to about a carload a year? Is that correct?

A. No, sir; galvanized sheets.

Q. The galvanized sheets only amounted to about a carload a year?

A. Yes, sir.

Q. What year was that that you became connected with the Murray Company?

A. In the early part of 1912; about the first of the year.

Q. Up to 1912, so far as you had anything to do with the purchases of galvanized sheets, you did not buy more than about a carload a year?

A. About a carload a year, yes, sir.

Q. How many tons are there in a car?

A. There are usually about 20 to 30 tons.

Q. About 20 to 30 tons a year up to that time, of galvanized sheets?

A. Yes.

Q. How many black sheets did you buy?

A. That varies very considerably every year. That is to

say, there were several years that we used two or three times what we did others.

Q. Take the year 1903: About what would it be?

A. I don't remember the particular years, except that I know 1903, 1902 and 1904 were all pretty big years in our business.

Q. Recollecting that they were pretty good years in your business, can you give me an approximate idea of about what they would average?

A. No; except the business corresponded, about, in those years, and it probably ran as much as 100 tons of black sheets those three years.

Q. Under the class of sheets you include everything below 13 gauge, or everything above 13 gauge?

A. When I say sheets, I mean stuff that figures from 10 gauge and thinner. When I say plates I mean stuff heavier than No. 10.

Q. Suppose you give me that same thing for your tonnage in 1913 in sheets, 13 gauge and thinner. Could you do that, or would you not be able to do it?

A. Well, in 1912 we used a total of about, I should say, six or seven hundred tons of galvanized and black sheets.

Q. All together; both kinds?

A. Yes; but in 1913 we used pretty close to a thousand tons of galvanized and black sheets.

Q. Do you know what portion of that was of the gauges 10, 11 and 12?

A. No, sir; I do not, except that the No. 10 gauge which we used would probably run—I would say it would run about one-fifth of the thousand tons or 600 tons.

Q. And the 11 gauge: Could you give me any idea of what that was?

A. We used some 11 gauge, but just as a substitute for the No. 10.

Q. The 12 gauge? How about that?

A. Nothing except little odds.

Q. As a matter of fact, then, from gauge 13 and thinner you had about 800 tons in 1913? Is that correct?

A. Yes, sir; somewhere along there. That is, of plates in

1913, figuring one-fifth for the No. 10 plates we use, that is probably 800 tons of galvanized and black sheets under No. 10 gauge.

Q. So that if we class 10, 11 and 12 as plates, it would add 200 tons to your plates and take 200 tons away from your sheets?

A. Yes; somewhere in that neighborhood.

Q. And for the year 1912 it would make——

A. It would add to the plates one-fifth of 600 tons.

Q. It would add to plates 120 tons and take away from sheets 120 tons?

A. Yes; of course, that is figuring down to exact tons, and I do not pretend to do that.

Q. I understand that your figures are approximate.

A. Yes; just giving a general idea of the business.

Q. What different companies did you purchase your heavy plates from in 1913?

A. Well, we bought some from the Illinois Steel Company; we bought some from the Jones & Laughlin people, and I believe we bought a few from the Tennessee Coal, Iron & Railroad Company, and some locally.

Q. Did the Tennessee Coal, Iron & Railroad Company and the Illinois Company and the Carnegie Company quote you on plates prior to the acquisition of the Tennessee Coal, Iron & Railroad Company by the United States Steel Corporation?

A. We used to buy most of our plates from the Carnegie people; that is, before my understanding of the Steel Corporation's time; that is, in the early days of my connection with the business; and we bought them also from Jones & Laughlin; and as to Carnegie furnishing any plates after the Tennessee Coal, Iron & Railroad Company was absorbed by the Steel Corporation, I will say this: that they have furnished us some special plates that they had the rolls for.

Q. That is, that the Carnegie had?

A. Yes, sir.

Q. I want you to hear that question again. I do not think you understood it.

(The stenographer repeated the question as follows:)

"Q. Did the Tennessee Coal, Iron & Railroad Company and the Illinois Company and the Carnegie Company quote you on plates prior to the acquisition of the Tennessee Coal, Iron & Railroad Company by the United States Steel Corporation?"

THE WITNESS: Well, I can state that the Carnegie people did, and everybody else in the plate business that I can remember. For instance, Jones & Laughlin, the rolling mill at Youngstown, Ohio; I believe the Norfolk people have a mill there, and several of the other mills. I don't remember just their familiar names; but Jones & Laughlin——

By MR. COLTON:

Q. I want you to hear that question again. I object to the answer as not responsive.

(The stenographer again repeated the pending question.)

THE WITNESS: I stated the Carnegie Company did.

By MR. COLTON:

Q. You do not now recall whether the Tennessee Company did or did not quote you on plates?

A. Before the Steel Corporation bought them?

Q. Yes.

A. They did after they put up the mill there; I don't remember just when that was. Whenever that was, whenever that got ready to furnish plates, they did furnish them.

Q. Do you recall the so-called panic of 1907?

A. Somewhat, yes.

Q. The latter part of 1907?

A. Yes, sir.

Q. Do you recall now whether you had quotations from the Tennessee Coal, Iron & Railroad Company prior to that time on plates?

A. I don't recall whether we got quotations from them before that time, but I know that we got quotations from them when they got their new plate mill up over there. I don't know just what year that was, nor when it was.

Q. And you cannot give me any idea when they put up the plate mill?

A. No. It was some five or six years ago. That is my recollection of it.

MR. REED: It is already in evidence, Mr. Colton, that they made 16,000 tons of plates in the year 1907. Is not that sufficiently definite?

MR. COLTON: I was just getting at whether they competed for his business at that time.

By MR. COLTON:

Q. You say whenever they had put up the plate mill they made quotations to you?

A. We got them to give us quotations on bars and plates.

Q. What is the first year you recollect that they gave you quotations on bars?

A. I don't remember that, either. I know that when I first was identified with the machine business, before my connection with the Van Winkle Company, I used to buy pig iron from the Tennessee Coal, Iron & Railroad Company, but I was connected with the Van Winkle Company when they started rolling bars. That is my recollection about it. I don't remember whether the Van Winkle Company ever purchased any bars from them or not. I know the Murray Company have not, unless it was some odd stocks, or something that they had.

Q. Do you remember for how many years you continued to purchase most of your plate from the Carnegie Steel Company?

A. From my first connection with the executive department of the Van Winkle Company we purchased all plates from Carnegie and Jones & Laughlin, first one year and then another, from 1901 until I went with the Murray Company, until the Murray Company absorbed the Van Winkle Company.

Q. That was in 1912?

A. That was in 1912.

Q. What percentage did you buy from the Carnegie Company in the year 1911, in plates?

A. I believe all we bought from the Carnegie Company in 1911 was 50 tons of special plates, and maybe 50 tons of dimension plates.

Q. Did you buy any of the Tennessee Company in 1911?

A. We possibly may have, but if we did, not many.

Q. Did you buy from the Illinois Company in 1911?

A. No, sir, not that I recollect.

Q. Take the year 1912: from what different companies did you purchase plates?

A. We bought most of them that we used; that is, heavier than No. 10 gauge—we bought most of them from Jones & Laughlin.

Q. I suppose you included in that, 10 gauge and heavier?

A. The trouble about that is, we buy 10 gauge, most of it, from one concern.

Q. Go ahead and use your own practice.

A. We buy plates heavier than 10 gauge from Jones & Laughlin; we bought plates heavier than that in 1912.

Q. And in 1913?

A. In 1913 we bought a few from Jones & Laughlin, and we bought a few from the Illinois Company.

Q. Where did you get the rest of it?

A. Well, you mean the heavy plates?

Q. Yes.

A. Well, I should not have used the expression "a few" in 1913 from the Illinois Steel Company, because we did buy three or four hundred tons of plates from them.

Q. Where did you get the rest of your heavy plates?

A. We got them from Jones & Laughlin.

Q. How many tons did you get from Jones & Laughlin in 1913?

A. About 50 tons. In 1913?

Q. In 1913?

A. About 50 tons.

Q. About 50 tons?

A. About 50 tons all told.

Q. Then you bought the majority of your plates from the Illinois Steel Company?

A. Yes, we did, in 1913.

Q. What percentage did you get from the Illinois in 1913?

A. Well, that gives you the percentage; 300 to 400. My recollection is that it was 340 tons from the Illinois Steel Company and about 50 tons from Jones & Laughlin in 1913.

Q. That gives the proportion in heavy plates?

A. Yes.

Q. Take the year 1910 in heavy plates; what percentage did you get from the Carnegie Company and what percentage from Jones & Laughlin?

A. In 1910 my recollection is that we did not buy any plates from Carnegie, but we got all we bought that year from Jones & Laughlin.

Q. How many tons?

A. I suppose in 1910 it didn't amount to more than 30 tons; it was a dull year.

Q. You did not buy more than 30 tons altogether?

A. Didn't buy more than 30 tons altogether, in plates.

Q. You are a very light purchaser of plates generally?

A. It was a very light year in my business.

Q. While it was a very prosperous year in the steel business generally?

A. Yes, our particular line was very dull that year.

Q. In 1911 what was your total percentage in heavy plates?

A. Well, I just stated that we purchased about 50 tons from Jones & Laughlin.

Q. I thought you stated that for 1910.

A. I said 1910 was a very dull year. I said 1910. In 1911 we probably used 50 tons of plates from Jones & Laughlin, and my recollection is that we bought 50 tons of special plates and bars from the Carnegie Company that year.

Q. So you bought half and half from those two companies that year?

A. Just about. You see, we buy a special plate that the Carnegie people had to roll for us; I think they made that in

1897 and when we bought those shapes we generally added a few plates or a few bars with it so as to make up—if we had an odd lot of plates that we did not have a carload of, we just gave that to them, because they would go into the car with the special plates.

Q. What is the largest tonnage you ever purchased of plates in any year?

A. 1913.

Q. And that was 350 tons?

A. Yes.

Q. And did you ever exceed a purchase of 100 tons any year prior to that?

A. Not in plates, except possibly in 1903 or 1904, but I do not remember well enough about those years to state positively, but it would probably run up to about 150 tons in 1902, 1903 and 1904.

Q. And about half of that would be these special plates, what you call special plates?

A. Yes, about half of it would be, about—well, 50 tons of it each year would be about the range of the special plates.

Q. Now, have your purchases of sheets been as insignificant as your purchases of plates have been?

A. The sheets are more insignificant up to 1912.

Q. Oh, yes, I recall that; I had forgotten. Now, in 1912 what tonnage did you purchase in sheets?

A. Well, I just testified that we purchased galvanized and black sheets, a total of about 600 tons in 1912.

Q. Did you get any of that from the American Sheet & Tin Plate Company?

A. We got all of it from them; that is, practically all of it. We bought some odd lots, special dimensions and sizes, locally and from different warehouses.

Q. In 1913 what proportion of your sheets did you get from the American Sheet & Tin Plate Company?

A. Well, in 1913 we bought all of our sheets from the American Sheet & Tin Plate Company.

Q. Taking sheets and plates for the year 1913, you pur-

chased about 95 per cent. from the United States Steel Corporation?

A. Well, I don't know the Steel Corporation except in this way; I just know it by hearsay that the Illinois Steel Company is the United States Steel Corporation.

Q. And the American Sheet & Tin Plate Company?

A. I just know that they are, by hearsay; I do not know that for a fact.

Q. You may assume that to be a fact, that both of those companies belong to the United States Steel Corporation.

A. I just stated the companies, and the purchases, and you know who they belong to.

Q. Taking those two companies as belonging to the United States Steel Corporation, you bought about 95 per cent. of your sheets and plates in 1913 from the United States Steel Corporation?

A. We bought it from the company I testified to, but I don't know whether it belongs to the Steel Corporation or who it belongs to.

Q. You stated you also purchased bars in addition to the other things?

A. Yes, we purchase bars.

Q. From what companies did you purchase bars in 1913?

A. Well, we purchased about 300 tons of bars, I would say, from Carnegie and Jones & Laughlin, and locally.

Q. 300 tons of bars altogether?

A. Yes; Jones & Laughlin and Carnegie.

Q. How much of that did you get from Carnegie, of those bars?

A. Let me see; we got about five carloads; that would be about 75 to 100 tons.

Q. 75 to 100 tons from Carnegie; and did you buy any from jobbers?

A. Yes, we bought, I guess, 100 tons all told.

Q. But you do not know what manufacturers that came from?

A. No, except that some of it I knew where it came from; some of it came from the Atlanta Steel Company, when we bought it locally.

Q. But confining yourself now to the purchases from manufacturers——

A. The principal bars we bought were from Carnegie, and second to that was Jones & Laughlin.

Q. And would Jones & Laughlin run about 75 to 100 tons also?

A. They possibly would not run as much as I stated. My recollection was that we bought about 100 tons from them, but they did not make all the deliveries in 1912; we got some of them in 1913, and the consequences were that we got about 60 tons. It was somewhere between 50 and 75 tons that we got from Jones & Laughlin in 1912, but we had a contract with them that made us entitled to about 100 tons.

Q. I think I was speaking about the year 1913; what tonnage did you get from Jones & Laughlin in 1913?

A. None except what was due us on the year before.

Q. And that amounted to about 50 tons?

A. It amounted to about 40 or 50 tons; somewhere in that neighborhood.

Q. I would like to have this down straight. I have it down this way: you got 300 tons of plates from the Illinois Company and 50 tons outside?

A. About 50 tons outside and about 340 tons from the Illinois Steel Company.

MR. REED: He has said that about half a dozen times, that he got about 50 tons outside and about 340 tons from the Illinois Steel Company.

By MR. COLTON:

Q. And from the American Sheet & Tin Plate Company you got how many tons?

A. We did not get any plates except No. 10 plates.

Q. And sheets: how many tons?

A. The galvanized and black sheets amounted to about 600 tons in 1912, and about in the neighborhood of 1,000 tons in 1913. I think I stated that once or twice before.

MR. REED: Practically all your sheets were bought from that company in both of those years; is that correct?

THE WITNESS: Yes.

MR. REED: That is, from the American Sheet & Tin Plate Company?

THE WITNESS: Yes.

By MR. COLTON:

Q. And from the Carnegie Company you got from 75 to 100 tons of bars, and outside you got about 225 tons; is that correct?

A. What year are you talking about?

Q. 1913?

A. No; in 1913 I think we bought, as I think I have testified, we bought in the neighborhood of 200 tons of bars from the Carnegie, and the other part from Jones & Laughlin and locally, making about 100 tons.

Q. Now, what other steel products do you buy?

A. Steel shafting.

Q. Is shafting the only other product?

A. We use a good large quantity of shafting.

Q. I say, is that the only other product?

A. You mean in steel?

Q. Yes.

MR. REED: He means of any consequence.

THE WITNESS: I guess the next to that is pipe, but that is not near as large in consequence as shafting.

By MR. COLTON:

Q. You do not buy any appreciable amount of pipe?

A. Only about two cars in a season; sometimes not that much. We did not buy that much this year, I am sorry to say.

Q. Now, you spoke of buying some structural steel.

A. Yes; that is not a great quantity either.

Q. That is an inappreciable amount also?

A. Yes.

Q. From what company did you get that this year?

A. We bought last year I guess half a car of a carload that came mixed with some bars from Carnegie, and we bought another carload from Jones & Laughlin.

Q. That is, for the year 1913 you only purchased about two carloads?

A. We probably purchased a total of three cars; one car came from some warehouse.

Q. And your purchases of structural steel, so-called, have been insignificant?

A. Insignificant, and have been more so than the last two years; it never did amount to a carload any year before that.

Q. I would like the tonnage for this last year in structural.

A. I suppose it amounted to 75 or 80 tons.

Q. And half of that you have gotten from the Carnegie Company?

A. No, we got part of a car from the Carnegie, that came in a car with some bars.

Q. How much did you get besides that?

A. Probably a carload from Jones & Laughlin; a little more from Jones & Laughlin, about 30 tons.

Q. And from the Carnegie how many tons?

A. I suppose anywhere from 10 to 15 or 18 tons.

Q. Of your other purchases of plates and structural and bars for the year 1913, leaving out shafting, you purchased from the Illinois Company, the American Sheet & Tin Plate Company and the Carnegie Company 95 per cent. of them or over?

A. Well, I don't know what the per cent. is; you have got all the figures.

Q. It would figure out from those figures, whatever they are?

A. I gave it to you just like it was.

MR. REED: You did not ask him about shafting.

MR. COLTON: I know.

By MR. COLTON:

Q. What company have you bought shafting from?

A. In 1912 we bought it both from Jones & Laughlin and the Cumberland Steel Company.

Q. Is your shafting all steel?

A. Yes.

Q. Is it cold rolled?

A. It is steel.

Q. Is it cold rolled?

A. Jones & Laughlin shafting is cold rolled, and we use ground-finished shafting that is made by the Cumberland people also.

Q. What sort of shafting?

A. Ground-finished shafting made by the Cumberland people.

Q. Is that hot rolled?

A. It is supposed to be hot rolled and ground. It may be cold rolled; I do not know; it is supposed to be hot rolled, and it is pretty nice stuff.

REDIRECT EXAMINATION

By Mr. Reed:

Q. How much shafting did you buy in 1912?

A. About 1,000 tons. No—in 1913——

Q. (Interposing) Let us get it straight; how many tons did you buy in 1912?

A. About 500 tons.

Q. How many tons in 1913?

A. About 1,000.

Q. Is there any other item of your steel purchases that is so large in tonnage as shafting?

A. Our galvanized sheets and thin sheets, they are just about the same tonnage.

Q. What percentage of your shafting did you buy from either the American Steel & Wire Company or the Illinois Steel Company or the Carnegie or the Tennessee Coal, Iron & Railroad Company?

A. Did not buy any of it.

Q. You did not get any of that 1,000 tons?

A. No, sir.

Q. How about 1912; did you get any from any of those four companies then?

A. No, sir; I did not.

(Whereupon an adjournment was taken until 10:30 o'clock a. m., to-morrow, Tuesday, January 6, 1914.)

ONE HUNDRED AND THIRTY-SIXTH DAY.

PIEDMONT HOTEL,
Atlanta, Georgia,

Tuesday, January 6, 1914.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the Defendants, MR. REED.

LOUIS GHOLSTEIN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. In Atlanta.

Q. What is your occupation?

A. I am the president of the Gholstein-Cunningham Spring Bed Company.

Q. That company makes spring beds, I presume?

A. Yes.

Q. How long have you been president of it?

A. Ever since it started, about thirteen years; twelve or thirteen years.

Q. Is that company located in Atlanta?

A. Yes.

Q. Had you been in the same business prior to the incorporation of that company?

A. Yes.

Q. For how long?

A. Possibly twelve years altogether; it was first Louis Gholstein & Company, and afterwards I was president of the Southern Spring Bed Company for six years.

Q. How long have you been in the spring bed business altogether?

A. Since 1888.

Q. You must be one of the pioneers in the manufacture of spring beds in the United States?

MR. COLTON: I object to that as leading.

THE WITNESS: In the South, at any rate.

By MR. REED:

Q. In the South?

A. Yes.

Q. What part of the bed do you manufacture?

A. Spring beds.

Q. Do you make every detail of the spring beds?

A. Well, of course I do not make the pipe nor the wire, but I coil it and assemble it all together; buy the pipes and the angles, and put them together, and the fabric on top of them.

Q. You buy pipe, you say?

A. Yes.

Q. About how many tons of pipe do you buy in a year?

A. Possibly 100 tons; I could not say positively.

Q. Do you buy that on a competitive basis?

A. Yes.

Q. Is there competition for your purchases?

A. Yes.

Q. Tell us the names of some of the competitors.

A. Well, as I buy only from one concern, I do not remember, unless you allow me to look at some memorandum I have.

Q. Well, if you have any memorandum that you made yourself.

A. Yes.

MR. COLTON: I would like to question him about that memorandum before he examines it.

MR. REED: All right; go ahead.

By MR. COLTON:

Q. When did you make this memoranda?

A. Yesterday.

Q. Did you make it personally?

A. I was standing by there, and my bookkeeper wrote it down as I gave him the names from a purchasing book in which I have the names of all manufacturers, or nearly all, with whom I corresponded about prices and who gave me prices. He took it down.

MR. REED: You dictated it?

THE WITNESS: I dictated it.

By MR. COLTON:

Q. You dictated the entire memorandum?

A. Yes; it was only very small.

MR. COLTON: I will cross examine further after he produces the memorandum.

By MR. REED:

Q. All right. You may use that memorandum, and give us the names of the manufacturers of pipe who have competed for your business.

MR. COLTON: I object to that as leading.

THE WITNESS: There are only three of them. I buy from the Interstate Iron & Steel Company.

By MR. REED:

Q. Where are they?

A. In Chicago. Prices were given me by H. A. Drewry, of New York, and the National Tube Company.

Q. They represented the National Tube Company, did they?

A. I do not know whether they did or not; they gave me prices direct, but did not state where the pipe came from.

Q. And has the National Tube Company been trying to get your business?

A. Yes.

Q. Have they succeeded?

A. No, sir.

Q. Have you bought any pipe from them?

A. None.

Q. Now, you buy wire rods, I presume, and wire springs?

A. Wire rods? I don't know exactly what a wire rod is, except what I call a wire rod is about an eighth or a quarter of an inch, which is a wire of a heavier weight, which goes around the edge of a spring bed.

Q. Well, you buy wire products, do you?

A. Wire products, yes.

Q. Do you buy tinned wire too?

A. I buy tinned wire.

Q. Do you buy helical springs?

A. Yes.

Q. And all the wire articles that enter into a spring bed?

A. Yes; tube and angle irons.

Q. I am just asking about the wire. How many tons of wire products of all kinds would you buy in the course of a year?

A. I should say something in the neighborhood of 500 or 600 tons, about.

Q. Is there competition for your business in wire?

A. Yes.

Q. Is that competition keen or otherwise?

A. It is pretty keen.

Q. Is it satisfactorily keen, Mr. Gholstein?

MR. COLTON: I object to that as calling for a mere conclusion, and as indefinite.

THE WITNESS: Yes.

By MR. REED:

Q. Tell us the names of some of the bidders for your business in wire products.

A. The Belmer Company of Cincinnati, Ohio; the Morgan Spring Company, in Worcester; and the Atlanta Wire Company.

Q. The Atlanta Steel Company, is that?

A. The Atlanta Steel Company; the Alabama Wire Company, of Ensley, Alabama; John A. Roebling's Sons Company, of Trenton, New Jersey; the Southern Iron & Steel Company, of Birmingham.

Q. Now, do you get quotations from Miller & Van Winkle?

A. On helical springs, yes; also on helical springs from the Morgan Spring Company and the American Steel & Wire Company.

Q. Does the Pittsburgh Steel Company quote to you on wire?

A. Not recently.

Q. Have Jones & Laughlin quoted to you at any time?

A. Very often.

Q. And the Cambria Steel Company?

A. Yes.

Q. About what percentage of all your wire products do you get from the American Steel & Wire Company?

A. Well, they are making a certain wire which is not made by any other concern.

Q. What kind of wire is that?

A. That is tinned wire.

Q. Tinned wire?

A. Yes, weaving wire, which is a very fine wire which I do not think any other concern makes.

Q. Where do they make that; do you know?

A. They make that in Worcester and in Cleveland, Ohio.

Q. They have two plants at which they make that?

A. Yes.

Q. That is a recent development?

MR. COLTON: I object to that as leading and as incompetent.

MR. REED: What answer would you suggest I was leading out of him, yes or no?

THE WITNESS: It is not a recent development with them.

By MR. REED:

Q. Now, do you buy angles and bars, bands and hoops?

A. Yes.

Q. About how many tons of such products do you buy in a year?

A. Well, I can not tell you exactly; something like—angles, possibly—I believe I stated angles.

Q. No, you did not.

A. About 100 tons.

Q. How about angles, bars, bands and hoops?

A. About 150 tons.

Q. About 150 tons of all those products that I have mentioned last; that is, angles and bars?

A. Yes.

Q. 150 tons altogether?

A. About 150 to 200 tons.

Q. What companies quoted to you on such articles as that?

A. On angles, the Carnegie Steel Company; the Buffalo Steel Company; the Elyria Iron & Steel Company; the Calumet Steel Company, of Chicago; and several brokers or agents: Davis, Kelley & Company, of Louisville; Warren G. Hill, of Boston, and John C. Vance, of Chattanooga.

Q. Do you get any quotations on angles or bars from the Atlanta Steel Company?

A. The Atlanta Steel Company also.

Q. From what company do you get your angles and your bars and bands?

A. The angles I buy from the Elyria Iron & Steel Company of Elyria, Ohio.

Q. Where do you get your bars and bands?

A. From the Atlanta Steel Company.

Q. Does the Tennessee Coal, Iron & Railroad Company bid for your business in bars?

A. Not within the last twelve months. They did before that.

Q. Were they ever successful in getting any of it?

A. No, sir; they were always too high in price.

Q. Have you had any bids from Cambria on bars?

A. Not within the last two years.

Q. From the Pittsburgh Steel Company?

A. Yes, sir.

Q. From the Republic Iron & Steel Company?

A. Yes.

Q. Now, Mr. Gholstein, take the quotations that are submitted to you by these competing companies on these different products: Do those quotations vary or are they all alike?

A. They vary.

Q. How long has that been so, Mr. Gholstein?

A. For several years, for a few years.

Q. Can you give us any closer estimate than that?

A. I don't think I can; say four or five years at least, that I could remember.

Q. Do you remember any time when that was not so?

A. I cannot.

Q. At this time can you remember any instance where all of the bids rendered you at one time were alike?

A. No, sir; I don't remember.

Q. How long has there been active competition for your business?

MR. COLTON: I object to that as calling for a conclusion upon a state of facts not disclosed to the Court.

THE WITNESS: Well, I cannot tell you just the number of years, but I remember that it has been nearly all the time. However, if I may supplement it, it has been keener within the last four or five years than ever before.

By MR. REED:

Q. Keener than ever before?

A. Yes, sir.

Q. You know competition when you see it, don't you, Mr. Gholstein?

A. Well, I have been 48 years in business and I have had it ever since I have been in business, and I ought to know something about competition.

Q. Is there real competition in the steel business, Mr. Gholstein?

A. There certainly is.

Q. You buy a lot of other materials besides steel materials, do you not?

A. Yes.

Q. What are some of the other materials that you buy in large quantities?

A. That does not come in here—ticking——

Q. Never mind whether it comes in here or not; just tell me what it is, Mr. Gholstein.

A. Paint, turpentine, twine, binding or bed-lace, cotton, cotton linters, nails, bolts, screws.

Q. You employ a good deal of labor?

A. Yes, sir.

Q. Do you rent offices?

A. Yes, sir.

Q. Do you rent a factory?

A. Yes, sir; I rent a factory in which my office is.

Q. In all these items except steel has the cost tended to increase or to decrease during the past twelve years?

MR. COLTON: Just a moment. I object to that as calling for a conclusion upon a state of facts not disclosed to the court, and I object to the witness as incompetent, as he is not shown to have any knowledge in respect to the cost of the various products.

THE WITNESS: It has been increasing. The prices of ticking, cotton, and all these other materials, have been increasing.

By MR. REED:

Q. How about the cost of labor?

A. Very much increased.

Q. How about rent?

A. It has also increased.

Q. How about steel products?

MR. COLTON: I object to the question and the witness generally concerning steel products, as his products are confined to one small, little line of products. The question is altogether too broad.

THE WITNESS: Well, they have varied, but are declining.

By MR. REED:

Q. What has been the general tendency—up or down?

A. In the last few years it has been down.

CROSS EXAMINATION

By MR. COLTON:

Q. What products were you purchasing before the American Steel & Wire Company was formed?

A. Wire, angles, tubes, helical springs, flat iron bands—

steel hoop they call it, I think—and of course nails, screws and bolts.

Q. What sort of nails were you purchasing before the American Steel & Wire Company was formed?

A. Just common nails.

Q. From what companies were you purchasing nails before the American Steel & Wire Company was formed?

A. I bought them right here from the jobbers; right here in Atlanta.

Q. You do not know what company they came from?

A. I do not.

Q. Don't you know that the price of nails was about $1.25 before the American Steel & Wire Company was formed and it has never since been as low as that?

A. I don't remember.

Q. You do not know what the price was before the formation of the American Steel & Wire Company, do you?

A. No; I did not buy so very largely. I did not buy more, possibly, than ten kegs a month, and I don't know what it was.

Q. Then you don't undertake to say, do you, that the price of nails was not lower before the formation of the American Steel & Wire Company than it has ever been since?

A. No; I cannot say.

MR. REED: You mean all the time before the Steel & Wire Company was formed, Mr. Colton?

MR. COLTON: I mean immediately before it was formed.

MR. REED: You have introduced charts in evidence, Mr. Colton, and they do not show a price as low as $1.25 on wire nails——

MR. COLTON: There is testimony to that effect.

MR. REED (Continuing) Later than the spring of 1895.

MR. COLTON: That was before the American Steel & Wire Company of Illinois was formed. That was the first of the consolidations of the American Steel & Wire that took in about one-half of the country's production in wire.

By MR. COLTON:

Q. Do you recall that, Mr. Gholstein?

A. No, sir.

Q. You have no recollection of that?

A. No, sir.

Q. Your memory does not carry you back that far?

A. To 1890?

Q. To 1895?

A. No, sir. As I stated, my purchases were not large enough for me to go outside of the city of Atlanta, as I bought only in small quantities.

Q. Is that true of all your purchases then?

A. No, sir; it is only on nails.

Q. Take wire: Do you know what you were paying for wire before the American Steel & Wire Company was formed? If so, state it.

MR. REED: Excuse me for a minute. I find, on looking at your chart, Exhibit No. 247——

MR. COLTON: Just a moment. You can take up anything you want to on redirect examination, but I object to your interrupting me now.

MR. REED: I object to misstatements of facts by counsel.

MR. COLTON: I was depending on testimony. It is not a misstatement of fact.

MR. REED: You have introduced a chart of prices of wire nails from the beginning of 1895, and there is not any time, I find on looking at it, at which wire nails were ever quoted as low as $1.25.

MR. COLTON: There has been testimony to that effect. Do you concede the chart to be correct, and that the prices there stated are correct?

MR. REED: I do not——

MR. COLTON: And that nothing there can be disproved?

MR. REED: We have disproved your chart over and over again.

MR. COLTON: But you have not——

MR. REED: I object to counsel making a statement of fact that does not seem to be warranted even by his own evidence.

MR. COLTON: We have had evidence showing nails as low as $1.25, and that within a short time before the American Steel & Wire Company was formed.

Now, will you answer the question, Mr. Gholstein?

THE WITNESS: What is the question, please?

By MR. COLTON:

Q. What did you pay for wire before the American Steel & Wire Company was formed?

A. If I remember, on the basis of $1.60 or $1.65.

Q. What year were you paying $1.60 and $1.65?

A. That was, I think, before 1895. I am not sure of it.

Q. Before 1895?

A. Yes.

Q. Don't you know that the price was very much lower than that? Is not the wire based on nails—is not that the general basis on which quotations are made?

A. I have given you what I remember, but I am not sure.

Q. You are not sure; you would not undertake to testify that that was the price you paid?

A. No, that is just my recollection.

Q. Your recollection does not carry you back that far?

A. Only I think that.

Q. Did you pay $1.65 all the time before the American Steel & Wire Company was formed?

A. I stated $1.60.

Q. Well, did you pay $1.60 all the time before the American Steel & Wire Company was formed?

A. I couldn't tell you.

Q. Don't you know that the prices varied before the American Steel & Wire Company was formed?

A. Yes.

Q. And you can not give the ranges of the variations, can you?

A. No, sir.

Q. I believe you said you bought nails entirely from jobbers before the American Steel & Wire Company was formed?

A. Yes.

Q. From what company did you buy your wire before the American Steel & Wire Company was formed?

A. From Worcester; they were located in Worcester. It was a firm——

Q. (Interposing) Washburn & Moen?

A. Washburn & Moen.

Q. That company went into the American Steel & Wire Company, did it not?

A. So I am told.

Q. Did you buy it from anybody else before the American Steel & Wire Company was formed?

A. I think I did.

Q. Did you buy from Belmer?

A. Not at that time.

Q. When did you first buy from Belmer?

A. I think after this American Steel & Wire Company went into business.

Q. Which one of these American Steel & Wire Companies do you mean? Do you mean the American Steel & Wire Company of Illinois, that took in about half of the production, or the American Steel & Wire Company of New Jersey, that took in about 95 per cent. of the wire rod business?

MR. REED: That is objected to because there is no evidence in this case to justify any such statement by counsel.

MR. COLTON: Make it about 90 per cent.

MR. REED: That is objected to because there is no such evidence in this case to warrant any such statement by counsel for the Government.

MR. COLTON: The evidence is in.

THE WITNESS: Will you ask that question over again?

By MR. COLTON:

Q. Do you mean the American Steel & Wire Company of Illinois?

A. I do not know them.

Q. You do not know?

A. I only know the American Steel & Wire Company, whose office is in New York City.

Q. Haven't they got offices all over the country?

A. I do not know it.

Q. You don't know that?

A. I only buy from one concern.

Q. Now, angles: from what company did you get your

angles before the American Steel & Wire Company was formed?

A. I don't remember.

Q. What did you pay for your angles before the United States Steel Corporation was formed?

A. I don't remember who I bought from nor what I paid.

Q. And you would not undertake to say whether the price was lower in 1900 than it was in 1910, would you?

A. No, I could not tell.

Q. Or whether the price was lower in 1900 than it is at the present time?

A. No.

Q. You do not undertake to testify on that, do you?

A. No.

Q. Now, did you say you bought any flat wire?

A. Yes.

Q. From what company did you buy that before the American Steel & Wire Company was formed?

A. I could not tell you that. Allow me to remark right now here——

MR. COLTON: I will object to it, because I would rather you answered my questions.

MR. REED: Let him finish his explanation. (To the witness:) You are entitled to make any explanation you want to.

THE WITNESS: I will tell you. The first thing, I am a pretty old man to go that far back; my memory is not as good. Besides that, I did not buy then within one-tenth, and possibly more, as much flat, angles or tubes in those days as I do now. Most spring beds then were made, instead of with iron frames, they were made with wooden frames.

By MR. COLTON:

Q. Then, as I understand you, you have no distinct recollection as to prices back in that time?

A. No, sir; I have not.

Q. And you do not intend to testify in regard to prices back to that time?

A. No; I can not, because I do not remember.

Q. Now, what is the first year in which you remember the price of wire, that you paid for wire?

A. Well, as I stated, I think it might have been just about 1895, or something like that, or a year or two before that.

Q. But I understood you to say about that time the prices varied, and you could not give the variation in prices?

A. I said, you know, that my recollection was that I paid $1.60, at a basis of $1.60 for wire.

Q. But you did not pay that all the time, did you?

A. No—well, I do not know whether I did or not; I can not remember.

Q. You do not know whether that was during the pool of 1896 that you paid that or not, do you?

A. No.

Q. And you do not know what you paid in 1897 or 1898, do you?

A. No.

Q. Now, since 1897, give the first year in which you recollect the price that you paid for wire.

A. I could not tell you positively.

Q. Give the first year you can tell the prices that you paid for angles.

A. Well, I should say about 1910.

Q. In 1910, what did you pay for angles then?

A. I think I paid something around $1.95.

Q. $1.95?

A. That is what I think.

Q. F. o. b. Pittsburgh?

A. No, f. o. b. Atlanta.

Q. What sort of angles were those?

A. What do you mean?

Q. What sort of angles were they? What sizes?

A. Oh, what sizes? I bought two inches by one and a half inches.

Q. You only bought the small angles, then?

A. The small angles, yes.

Q. Do you recollect the price of angles in 1912?

A. Yes.

Q. What was it?

A. I think they were about—they varied—about $1.90.

Q. Suppose you give the highest price; that is $1.90?

A. My recollection is about $1.90.

Q. Do you have any distinct recollection that the price was $1.90 in 1912?

A. No.

Q. You haven't any distinct recollection about the prices at all, have you?

A. Yes; I have got the prices now.

Q. You have got the prices for this year?

A. Yes.

Q. And that is the only thing you have a recollection about?

A. And last year, too.

Q. You have some recollection of prices for the last year, too?

A. Yes.

Q. That is all, is it?

A. Yes.

Q. Now, do you know whether this steel that you get from the Elyria Company is rerolled steel?

A. I don't know.

Q. You do not know whether those bars are rerolled or not?

A. I do not.

Q. You do not know whether that concern makes any original steel or not, do you?

A. I do not.

Q. You do not know whether it buys all its steel, that comes directly from the United States Steel Corporation or other steel companies, do you?

A. I do not.

Q. What were your total purchases in all steel products last year, 1913?

A. You mean angles or wire?

Q. In all steel products?

A. Possibly in the neighborhood of 800 tons.

Q. That is the year 1913?

A. Yes.

Q. What was it in 1912?

A. It might have been a little more.

Q. And in 1911?

A. It was also a little more than in 1913.

Q. And in 1910 a little more still?

A. No, sir; I do not remember that far back.

Q. Your business has been decreasing, then, during the last three years?

MR. REED: He did not say that.

MR. COLTON: I understood him to, from his testimony, that it was greater in 1911 and 1912 than it was in 1913.

MR. REED: That is a decrease in one year, not three years.

THE WITNESS: The decrease was in 1912. In 1913 I bought more, of wire, than in 1912.

By MR. COLTON:

Q. Didn't you just state a moment ago that you bought more steel products in 1911?

A. I might have said that, but I now remember that my output of wire springs was larger. I took the total of my business, don't you see, not thinking that you were asking the question. My total business was larger last year than it was in 1912 and 1911, in steel products.

Q. Now, let us get back to your steel purchases. In 1913, were you correct when you stated that your purchases of all steel products amounted to about 800 tons?

A. Well, in that neighborhood, yes.

Q. And in 1912 it was greater than in 1913?

A. Not more than possibly five per cent.

Q. And in 1911 it was greater than it was in 1913?

A. No; 1911—if I said it was larger than in 1912, I meant it was about the same as 1912.

Q. About the same as 1912?

A. Yes.

Q. And back of 1911 you cannot remember?

A. I cannot remember.

Q. When did you make your last purchase from the American Steel & Wire Company?

A. Well, I made some purchases from them nearly every month; some small quantities of wire which no other factory makes; tinned wire, for instance, with the exception of Roebling.

Q. When did you make your last purchase was the question I asked.

A. Within the last three months.

Q. Within the last three months? What kind of wire; different kinds of wire?

A. No; for tinned wire.

Q. Is that the only kind of wire you purchased from them?

A. I bought, about three months ago, wire from them which I had bought entirely from the Atlanta Steel Company, but about three months ago they had a strike out there and I was forced to buy that same wire which I bought from the Atlanta Steel Company constantly, I was forced to buy it from the American Steel & Wire Company.

Q. How much wire coming from without the State of Georgia, in tons, did you purchase in the year 1913?

A. I should say about 150 tons.

Q. About 150 tons coming from without the State of Georgia?

A. Yes, sir.

Q. Of what kind of wire?

A. Acme wire, and tinned wire, and weaving wire.

Q. And of that tonnage coming from without the State of Georgia, how much of it came from the American Steel & Wire Company?

A. Nearly all of it—150 tons—I beg your pardon; about 125 tons.

Q. About 125 tons out of the 150 tons of the wire that is transported in interstate commerce during the last year you purchased from the American Steel & Wire Company; that is correct, is it not?

A. Yes, sir.

Q. What kind of pipe do you buy?

A. Iron pipe.

Q. Mostly iron pipe, is it?

A. That is the only way I can describe it. I don't know whether it was made out of steel or anything else. I cannot tell you. We call it all iron pipe.

Q. You don't know whether you buy iron pipe or steel pipe?

A. It is called steel pipe. I always call it iron pipe.

Q. You call it iron pipe?

A. Yes.

Q. You don't know which it is?

A. I do not.

Q. Is it brazed pipe?

A. Yes; it is brazed.

Q. Did you ever get a quotation on brazed pipe from the National Tube Company direct?

A. I don't think I ever did.

Q. Don't you know that the National Tube Company does not make brazed pipe?

A. I do not.

Q. Then you do not know, as far as brazed pipe is concerned, whether you could get it from the National Tube Company or not?

A. I don't know.

Q. Do you buy any other pipe than brazed pipe?

A. No, sir; I think I buy certain bent pipe, but I think that is also brazed; I am not sure.

Q. This memorandum that you had prepared just related to the last year or two, did it not?

A. Yes, sir.

Q. And your testimony was based on that memorandum that you had there, so far as your memory went in regard to those different companies, and just the last year or two? Is that it?

A. No, sir; not as to all companies.

Q. Let me have that memorandum for a moment.

A. Here it is, and here is the letter (handing paper to counsel).

Q. Take the year 1910: Give me the different companies that quoted you on brazed pipe.

A. I cannot say what companies quoted me. There is a concern in New York State that I have never bought from, and I cannot remember—I have no memorandum on that.

Q. You cannot testify about that independently of the memorandum, can you?

A. No, sir.

Q. Take the year 1910, and give me what different companies quoted you on angles?

A. Let me refer to that, please.

Q. I mean, independently of the memorandum, now.

MR. REED:—He has already stated, Mr. Colton, that he could not do it without referring to the memorandum.

THE WITNESS: There it is. You will find on top of it "angles"—on one of those memoranda, maybe on the blue one or the other one.

By MR. COLTON:

Q. To what year does this memorandum refer?

A. To several years.

Q. Do you know to what years it refers?

A. As far back as three years, at least.

Q. Three years?

A. Yes, sir.

Q. And this (indicating) refers back to three years also?

A. No; this refers back to many years beyond the other.

Q. The memorandum referring back to three years: I will ask you whether that memorandum referring back to three years is the one that has angles written on it, and Carnegie Steel Company, and Pittsburgh Steel Company, Tonawanda, New York, Elyria Iron & Steel Company, Elyria, Ohio, and also the one that has iron pipe on it; that is the one that refers to three years? Is that correct?

A. Yes.

Q. The memorandum that is entitled "wire" and reads as follows: "Belmer & Company, Cincinnati, Ohio, Morgan Springs Company, Alabama Wire Company, John A. Roebling's Sons, Helmuth, New York City, Southern Steel Com-

pany, Atlanta Steel Company:" To what years does this memorandum refer?

A. Three years—no; that is further than that. That goes back for ten years.

Q. For ten years?

A. For some of them, yes.

Q. As to some of the companies it goes back ten years?

A. Yes.

Q. Do you know as to which companies it goes back ten years?

A. The Belmer Company.

Q. That is one of the companies that sold out to the American Steel & Wire Company, is it not?

A. So I have heard, yes; although they quote me prices now.

MR. REED: Then I object to hearsay evidence as to a supposed sale. Have you any knowledge of that, Mr. Colton?

MR. COLTON: It sold out once; I don't know whether it kept sold out or not. I think it went into the jobbing business later.

By MR. COLTON:

Q. What tonnage of helical springs do you buy?

A. I should say nearly a hundred tons.

Q. From what company did you buy helical springs in 1910?

A. Miller & Van Winkle.

Q. Are they jobbers?

A. No; they make springs.

Q. Do you know where they get their wire?

A. I do not.

Q. Do you know whether they have a place to manufacture wire?

A. I don't know whether they have a place to manufacture wire. I know they have a place to manufacture springs for spring beds.

Q. Do they manufacture helical springs?

A. Yes.

Q. Do you get them from anybody else?

A. The Morgan Company.

MR. REED: The Morgan Spring Company?

THE WITNESS: The Morgan Company makes springs and they sell wire too.

By MR. COLTON:

Q. Did you get any from them in 1910?

A. No, sir.

Q. You bought entirely of that company in 1910—the one you named before?

A. Miller & Van Winkle.

Q. In 1911 what company did you buy from?

A. I think I bought from them also.

Q. Entirely from them?

A. That is my recollection.

Q. When you say "from them," would you give the company again?

A. Miller & Van Winkle.

Q. In 1912 from what company did you buy?

A. From Morgan a great deal, and I bought some from the American Steel & Wire Company.

Q. Do you know what tonnage you bought from the American Steel & Wire Company in 1912?

A. The larger part.

Q. In 1913 what tonnage did you buy from the American Steel & Wire Company in helical springs?

A. Possibly 70 per cent.

Q. I believe you said you bought your angles entirely from the Elyria Company?

A. Yes.

Q. How long has that been the case?

A. Four years.

Q. The hoops—you did not buy any hoops, I believe, but you buy some small bars?

A. Hoop steel.

Q. You buy some hoop steel and some bands?

A. Yes.

Q. What company do you get that from?

A. The Atlanta Steel Company.

Q. You do not get any of that from outside of the State of Georgia?

A. Not for the last two or three years.

Q. Would you give me the size of your wire, from the smallest to the largest size?

A. Nos. 3, 5, 7, 10, 11, 12, 12½ and 14.

Q. Does that run from 3/16ths of an inch up?

A. I don't know the size of it.

Q. You don't know what No. 3 is?

A. I do not. I have never measured it.

Q. You did not mean to say that that was a wire rod that was used for drawing wire?

A. No, sir.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Did you testify to the size of the wire rods that you buy?

A. It is not larger than a pencil.

Q. Is it about the size of a pencil?

A. Yes.

Q. You do not know whether that is what wire is drawn from or not, do you?

A. I do not.

Q. You just buy that product?

A. I buy that product.

Mr. Reed: That is all.

WILLIAM D. KRENSON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live, Mr. Krenson?

A. Savannah, Georgia.

Q. What is your occupation?

A. Hardware and iron merchant.

Q. What is the name of your firm?

A. J. D. Weed & Company.

Q. How long have you yourself been connected with the firm?

A. About 40 years.

Q. How long has the firm itself been in business?

A. About 98 years.

Q. It must be one of the oldest hardware firms in the South?

A. I believe it is the oldest in the United States.

Q. Have you been familiar with the purchases which that company has made of steel products in recent years?

A. Yes, sir.

Q. Have you, yourself, done the buying for any considerable period?

A. Yes, sir.

Q. Since when?

A. Since about 1885, I guess.

Q. Do you buy wire?

A. Yes, sir.

Q. And various wire products, I suppose, like nails, fence, plain and barbed wire?

A. Yes, sir; practically all the products made by the American Steel & Wire Company.

Q. Do you buy pipe?

A. Yes, sir.

Q. Do you buy sheet steel?

A. Yes, sir.

Q. Both plain and corrugated?

A. Yes.

Q. Do you buy bar steel?

A. Yes, sir.

Q. Do you buy bar iron as well?

A. Yes.

Q. Are bar steel and bar iron ever used for the same purposes?

A. I think so.

Q. That is, are the products interchangeable to some extent?

A. To a large extent.

Q. About what tonnage of wire products does your firm buy annually?

A. The products made by the American Steel & Wire Company?

Q. No; of all wire products.

A. From 1,500 to 1,800 tons.

MR. COLTON: Ask if those are not synonymous—— I mean if the American Steel & Wire Company does not manufacture all the wire products that he knows of.

MR. REED: I do not know that that is important. You can ask him that if you wish to do so.

THE WITNESS: I mean all such products as they manufacture.

By MR. REED:

Q. About what tonnage of pipe do you buy annually?

A. I should say about 300 tons. These figures are just as I remember—about what it seems to me.

Q. I am asking only for your best recollection of the approximate tonnage.

A. I am not undertaking to give you anything like exact figures, you understand.

Q. I understand that, and I am not asking you to do any better than to give the approximate figures.

In sheets, how many tons do you buy annually?

A. I think it is in the neighborhood of 500 tons.

Q. And in steel bars?

A. In steel bars or steel and iron bars, taking them as a whole?

Q. Take them separately, if you can.

A. I should say in steel bars, hoops and things made by the same steel makers, about four or five hundred tons—four hundred tons.

Q. How about iron bars?

A. I should say five or six hundred tons.

Q. A little more iron bars than steel bars?

A. Yes.

Q. Of your wire products about what percentage do you get from the United States Steel Corporation?

A. I would say 80 per cent.

Q. And in pipe about what percentage?

A. 85 to 90 per cent.

Q. And in sheets about what percentage?

A. Well, about 40 per cent.

Q. And in steel bars?

A. More than three-quarters; say 75 to 80 per cent.

Q. And in iron bars?

A. No per cent.

Q. What is the reason that your purchases of wire and pipe come so largely from the Steel Corporation? Is there any factor which in your territory gives them an advantage over their competitors?

A. There is.

Q. What is that?

A. They keep a large warehouse in our town.

Q. Is that an advantage to you as a consumer?

A. Very decidedly.

Q. And is it an advantage to them as a seller of their products?

A. I presume it must be.

Q. Is there competition for your business?

A. Yes.

Q. In each of these products that you have named?

A. Yes.

Q. Do you buy on a competitive basis?

A. Yes.

Q. Do you ask quotations from competing manufacturers of these products?

A. Yes.

Q. Do you find that these quotations that you receive vary, or that they are all alike?

A. They vary.

Q. And how long has that been so?

A. Well, as far back as I can remember. I should say always.

Q. Is the competition for your business keen and active?

A. Yes, I think so.

Q. I presume that in 40 years' experience you have become a pretty good diagnostician of competition, have you not?

A. Well, some people never learn anything; it looks to me like the more experience I get sometimes the less I know. The new things I learn crowd out the things I used to know.

Q. Your experience has taught you something on that subject, has it not?

A. Well, I hope so.

Q. Do the salesmen of competing manufacturers of these different products solicit your business?

A. Yes.

Q. How do the Steel Corporation's prices compare with those of its competitors? Can it be said that they are always higher or always lower, or is there a variation in that too?

A. There is a variation in that.

Q. In what kind of times are you apt to find the Steel Corporation's prices higher than its competitors' prices?

A. I should say when times are dull, hard times.

Q. What is the situation then? How do the prices of the Corporation contrast with those of its competitors?

A. They are higher.

Q. The Steel Corporation does not go to the low quotations that its competitors do; is that what you mean?

A. That is right.

Q. In good times, when business throughout the country seems to be plenty, how do the Steel Corporation's quotations usually run? Are they higher or lower than their competitors' in such times?

A. More apt to be lower.

Q. In other words, its prices fluctuate less than those of its competitors?

A. I would say so.

Q. Now, has that greater steadiness in its prices, in your opinion, had any effect in steadying the steel business generally?

A. I think so.

Q. Has that been a benefit or a disadvantage to the purchasers of material?

A. An advantage.

Q. I suppose it takes away part of the speculative feature of the business, does it?

A. It does.

Q. You do not buy any products of the Tennessee Coal, Iron & Railroad Company, do you?

A. Yes.

Q. What kind of products do you buy from it?

A. Steel bars.

Q. Have you noticed any improvement or deterioration in the quality of that company's product since it was bought by the United States Steel Corporation in 1907?

A. Well, I think, as a rule, the material has a better reputation; they have a reputation for making better goods. I am not an expert on the handling of it or manipulating of it.

Q. You do not put the calipers on it yourself to see how well it is rolled?

A. No.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. The Steel Corporation has had an effect in steadying the steel business and in steadying the prices of steel products, has it not?

A. I think so.

Q. Give us the five or six products that you get from the American Steel & Wire Company, covering the largest tonnage, and name them fairly slowly. Wire nails; would that be one?

A. Yes.

Q. And barbed wire?

A. Yes.

Q. Will you name the others?

A. Wire fence and hay ties.

Q. And poultry netting?

A. Poultry netting.

Q. Plain wire?

A. Plain wire, both galvanized and plain annealed, and horseshoes.

Q. Now, what tonnage would there be in the following products: wire nails, plain wire, barbed wire and wire fencing, and that class of wire?

A. Leaving out the horseshoes?

Q. Leaving out the horseshoes and leaving out the hay ties and leaving out the poultry netting.

A. Well, I would say 1,200 tons; in the neighborhood of 1,200 tons.

Q. Those are known as coarser products that I have named there, the wire nails, plain wire and barbed wire, and fencing?

A. Yes; I guess in that particular line they would be the coarser products.

Q. And the other tonnage in the wire products—and I do not class as wire products the horseshoes; give your tonnage.

A. Probably 200 tons.

Q. How much?

A. Say 200 tons.

Q. How much of that is hay ties?

A. 50 or 75 tons.

Q. How much is poultry netting?

A. I would say 40 to 50 tons.

Q. What is the next largest item in tonnage?

A. Outside of what you call the coarser products?

Q. Outside of the coarser products, yes.

A. Why, I do not recollect that there is anything else. Did I mention anything else?

Q. That is all you mentioned, but I thought there was some other kind of wire you might mention that did not come within those classes.

A. No; I put in wire staples along with the wire; I did not mention that particularly, but they go with the other wire products.

Q. What is your tonnage in horseshoes?

A. I do not like to mention my tonnage to go outside of this office here to the public.

Q. If you would like to enter it into the record instead of stating it out loud—nobody ever reads the record except the attorneys in the case.

A. I do not care to have my competitors know about my tonnage. I have said too much already.

MR. REED: It is only fair to Mr. Krenson to say that this record is read diligently by a lot of people in the steel business, and there is no guarantee that anything that is said here will not be known.

MR. COLTON: All right.

By MR. COLTON:

Q. What percentage of your horseshoes do you buy from the American Steel & Wire Company?

A. I would say from 60 to 70 per cent.

Q. Now, coming back to wire nails, what percentage of your wire nails during the year 1913 did you purchase from the American Steel & Wire Company?

A. I must have bought 80 per cent. of them. I guess.

Q. In 1912 what percentage, approximately?

A. Going back to different years, my impression is that it has been very much the same year after year; it might have been a little more from the American Steel & Wire Company's different divisions that I would buy from one year, and a little more the next year from the other concerns, but my impression is that it has been very much the same during those years, different years.

Q. In 1901 what company other than the American Steel & Wire Company did you buy wire nails from?

A. You would have to refresh my memory by telling me when the American Steel & Wire Company started business.

Q. I am speaking of when the United States Steel Corporation started busines, and that was in the year 1901, the year they started business; that is the reason I used that year, because it was when the United States Steel Corporation was formed.

A. What is the question, now?

Q. My question was: What company, if any, did you buy wire nails from other than the American Steel & Wire Company in 1901?

A. I can not recollect.

Q. You do not recollect any other company that you did purchase from?

A. I could recollect perhaps the names of other companies, but I could not tell you, to save my life, whether I bought anything from them, or what proportion, and so forth, at that time.

Q. You say you could perhaps recall some other companies in 1901?

A. Yes; that were in existence. There was the Oliver people.

Q. That was Oliver & Roberts?

A. I believe it was Oliver & Roberts.

Q. That went into the American Steel & Wire Company?

A. About that time; did it? I could not recollect the names of the concerns, I do not think.

Q. Is that the only company that you now happen to recall?

A. Wait a minute. I don't recall; if my memory could be refreshed, I could tell you whether I recall the companies that I bought from.

Q. Did you buy from the Consolidated Steel & Wire Company?

A. Yes; we used to buy some goods from them.

Q. That went into the American Steel & Wire Company?

A. Yes, we used to buy some goods from them.

Q. The Consolidated Steel & Wire Company and the Oliver Company competed for your business, did they?

A. At one time.

Q. Before they went into the American Steel & Wire Company?

A. Yes.

Q. What is the first year that you can name positively any company outside of the American Steel & Wire Company, sub-

sequent to the year 1901, in which you purchased wire nails from that company?

A. I would not undertake to answer that question.

Q. Don't you recollect?

A. No, I do not recollect. I have got too much to do. My mind is actively going all the time. I don't sit down and do nothing and look at somebody else working. I would go crazy if I undertook to recall anything like that. I would not attempt to tell you the prices of anything if I met you on the street, any more than I would undertake to fly off the roof of this building.

Q. Your recollection of prices, these things being a matter of record, you have not troubled your mind with those things, and you haven't any memory as to these things?

A. No, sir; except in a general way.

Q. Well, now, maybe I can help your memory a little bit. I do not think you mean to say that you cannot recollect any year that you purchased only from the American Steel & Wire Company. Is that what you mean?

A. There is no year that I purchased only from the American Steel & Wire Company; no year at all.

Q. What company did you purchase from other than the American Steel & Wire Company in 1901, 1902, and 1903?

MR. REED: You have asked him that three times, Mr. Colton.

MR. COLTON: Yes.

MR. REED: What is the use of reiterating it?

MR. COLTON: I am trying to get at just what he does mean to say. He named the Oliver Company as a different company from the American Steel & Wire Company, and I want to find out whether he is including companies that were taken in by the American Steel & Wire Company.

MR. REED: He tells you he does not remember, and it does not make it any stronger to say it three times over.

THE WITNESS: I do not include in my general statement that there were other companies—I do not recollect the names of the companies that far back. I could recollect the names of some of the companies in 1913, for instance, because that is fresh in my mind.

By Mr. Colton:

Q. Taking those earlier years; do you know what companies were in the American Steel & Wire Company and what companies were out of the American Steel & Wire Company?

A. To call the names out, no, sir, I do not.

Q. You do not know all of those that were in?

A. No, sir.

Q. You do not know whether you were buying from those in the American Steel & Wire Company or not?

A. I knew at the time, but I do not know now.

Q. Did you a moment ago, when you spoke of buying from the Oliver Company in 1901, know that that was in the American Steel & Wire Company in 1901?

Mr. Reed: He did not testify——

The Witness: I did not say I bought from the Oliver Steel Company. You asked me if I could remember the names of some other companies, and I said I thought one of the names that I remembered was the Oliver Company, because I had been buying goods, or had bought from them for a number of years.

By Mr. Colton:

Q. Did you not give that as one of the companies outside of the American Steel & Wire Company from which you purchased goods?

A. No. I simply meant that as one of the companies that I remembered in the back part of my buying experience. When they went into the American Steel & Wire Company I don't know. I don't recollect.

Q. Don't you recollect that the percentage you bought from the American Steel & Wire Company in wire nails was greater in 1901 than it is now?

A. Was that the first year that the American Steel & Wire Company was formed?

Q. That was about two years after the formation of the American Steel & Wire Company.

A. No; I would not undertake to say that I recollect how much I bought from them, whether I bought 25 per cent. or 75 per cent. from them in 1901.

Q. The first year that the American Steel & Wire Company was formed what percentage did you buy from them?

A. I don't know. I could recollect hardly what I bought last year, except in a general way, as to percentage.

Q. What companies quoted you in 1910, that you now recollect?

A. I would not state the names of any companies any year, except the present year, except in a general way that every company, practically, in the nail business, comes into my office and quotes me prices and earnestly solicits trade and business.

Q. And in spite of that the American Steel & Wire Company gets 80 per cent. of your business, on a general average?

A. I should say about that; and that is easily explained.

Q. But what I am trying,——

MR. REED: One minute. Go ahead and finish your answer, Mr. Krenson.

MR. COLTON: I object to counsel suggesting to the witness that he continue. He had stopped his answer.

MR. REED: He said: "And that is easily explained," and then you started to ask him a question. I want him to finish his explanation.

MR. COLTON: I think if counsel had not suggested anything the witness would have stopped.

MR. REED: I want him to finish the explanation which he is entitled to make.

THE WITNESS: I expected to go on.

By MR. COLTON:

Q. Very well. Go ahead.

A. The American Steel & Wire Company maintains large warehouses in Savannah. It is very much to my advantage, when I want a car of nails, to send an order down there for a car of nails and take two or three days to haul it to my warehouse. I can begin hauling the minute I place my order. If I buy from the Pittsburgh Steel Company at ten cents a keg less, it takes about three days before they get my order and it is probably from ten days to two weeks before they

ship it, and it is from ten days to three months before I get it, by the fast rail and water routes that we have.

Q. As I understand your testimony, while you cannot state what percentage you bought from the American Steel & Wire Company when it was formed, on a general average it has run about 80 per cent. from the time of its formation?

A. That would just simply be a mere guess.

Q. That is your testimony, to the best of your recollection, that it ran about 80 per cent., is it not?

A. That was my testimony, to the best of my recollection, and that is still my testimony.

Q. In what year did they put up a warehouse in Savannah?

A. I could not tell you that.

Q. Can you not give approximately when they put that up?

A. No. It seems to me it has been some time.

Q. How long? Two years?

A. Longer.

Q. Three years?

A. Longer.

Q. Four years?

A. I should say longer.

Q. Five years?

A. I should say longer.

Q. Six?

A. Longer than that, I think.

Q. Seven?

A. I think longer than that.

Q. Eight years?

A. I guess it has. I would not testify to that, but that would be my recollection.

Q. Yet you were buying 80 per cent. from them before they put up that warehouse? That is your testimony?

A. That is the testimony, as I recollect it.

Q. Do you know how many warehouses the American Steel & Wire Company has throughout the United States?

A. No, sir.

Q. Before that warehouse was put up, can you name a

single company other than the American Steel & Wire Company from which you purchased wire nails?

A. I think I purchased wire nails from a company in Birmingham, Alabama; I have forgotten the name.

Q. That is the only other company you can name?

A. I ought to remember the name of every company that ever made wire nails, but I cannot—because if any man has ever worried over nails, I have.

Q. What tonnage did you buy from that Birmingham firm?

A. What percentage of tonnage?

Q. Yes; the year you bought from them?

A. I could not tell you. I would say that the competition is greater now than it was, in my opinion.

Q. When the American Steel & Wire Company was formed?

A. Yes.

Q. Before the American Steel & Wire Company was formed, were there not a great many different companies in the United States Manufacturing nails?

A. Quite a good many; and I guess there are almost as many doing it to-day.

Q. Do you know how many there were manufacturing nails before the American Steel & Wire Company was formed?

A. No, sir.

Q. Don't you know there were 40 different companies manufacturing nails before the American Steel & Wire Company was formed?

MR. REED: I object to that statement of fact by counsel.

THE WITNESS: No, I don't know.

By MR. COLTON:

Q. You do not know how many of those 40 went into the American Steel & Wire Company?

A. Some of them were very small, I expect.

Q. And some are still small—other than the American Steel & Wire Company, are they not?

A. No; they get pretty good sized.

Q. Name any company that manufactures one-tenth as many wire nails as the American Steel & Wire Company.

A. I don't know the tonnage of the American Steel & Wire Company, nor do I know the tonnage of any other one mill.

Q. Take plain wire: What percentage of your plain wire did you get from the American Steel & Wire Company in 1913.

A. I would have to answer you in regard to those wire products on one line the same as the answers have been on the line of nails. Very often those cars are assorted in proportions, and there are years when there is a great deal more wire business than in others. Take a good purchasing year, as far as my business is concerned, in the Florida tobacco growing country, and I might sell ten to twenty carloads of galvanized wire, and take a year when things are bad, and the purchasing is small down there, and I might not sell more than one or two cars.

Q. By answering the same way, you mean that your answer would be about the same, that it would run in the neighborhood of 80 per cent. for the American Steel & Wire Company, and you could not give the exact figures?

A. I should imagine it would. I may contract with two or three different wire producing concerns, at the same time, and generally have at least two to three contracts. Hardly ever do I fail to have at least two contracts, one with the American Steel & Wire Company, for instance, and one with the Pittsburgh, or one with the Cambria, or one with this concern over in Alabama, or the Youngstown Sheet & Tube Company—anybody that makes wire nails. I generally have two contracts, and sometimes three contracts.

Q. What is the first year you had a contract for wire with the Cambria Company?

A. I did not state positively that I had a contract with the Cambria Company.

Q. Then you were just simply illustrating what you might possibly do, rather than stating anything that you ever have done?

A. I say that I generally have at least two contracts, and seldom ever did I fail to have two contracts.

Q. What price did you pay for your wire nails when you made your contract with the American Steel & Wire Company in 1913?

A. If I could recollect exactly, I would object to answering.

Q. Then you are not willing to give your prices here, so that we can test and compare prices, are you?

A. I am only willing to give you prices in a comparative way, as nearly as I could recollect, but not to give you my exact prices. I would not give that to my brother, if he was outside of my shop. I would not state that to any person outside of my office.

Q. Do you recollect the price, anyway?

A. No; I do not believe I would; that is, in the early part of 1913. I don't think I recollect the exact price.

Q. Do you recollect the price the American Steel & Wire Company made you for any year?

A. Not exactly.

Q. Take steel bars: How long have you been buying steel bars?

A. I don't know. A good many years.

Q. Can you not give it a little more definitely than "a good many years"?

A. No; it would just get me mixed up.

Q. In 1913 you bought 75 to 80 per cent. of your steel bars from subsidiaries of the United States Steel Corporation; is that correct?

A. I should not say over 75 per cent.

Q. Say 75 per cent., then. Does the United States Steel Corporation maintain one warehouse for the American Steel & Wire Company's goods, and a different warehouse for the goods of the other subsidiaries?

A. I think they do.

Q. They do?

A. Yes.

Q. Do they have a warehouse for steel bars?

A. In Savannah?

Q. Yes.

A. No.

Q. Nevertheless, you did buy in 1913 75 per cent. of your steel bars from the United States Steel Corporation?

A. Yes, I think I did. I guess I did.

Q. Despite the fact that they did not have a warehouse there?

A. Yes, sir.

Q. In 1912 what percentage of your steel bars did you buy from the United States Steel Corporation?

A. I could not tell you any more than in a general way to say that the same probably would apply.

Q. About the same percentage, and that would be true——

A. That would be my guess, yes. I rather think that I bought more of these bars from the U. S. Steel Corporation than I did outside for some time back.

Q. As far back as you can recollect?

A. Yes.

Q. What sort of pipe do you buy?

A. Merchant pipe, steel pipe, wrought pipe.

Q. And would you give the percentage that you buy of that from the United States Steel Corporation?

A. In making a guess like this, I might state one percentage one time, and five minutes afterwards I might give a little different statement.

Q. A little different, yes. I am only asking approximately.

A. I should say in pipe, in the neighborhood of 85 to 90 per cent.

Q. Would that run back about the same way that it did in respect to wire products, as nearly as you can recollect? Of course I understand that your answer is merely approximate as to tonnage.

A. Yes; I should say so.

Q. Does the National Tube Company or the United States Steel Corporation maintain any warehouse in Savannah?

A. No. That is——

Q. (Interposing) In spite of the fact——

MR. REED: Let him finish.

THE WITNESS: Wait a minute. They do, in a measure. I say, in a measure, the Crane Company maintain a big warehouse down there.

By MR. COLTON:

Q. And your understanding is that the Crane Company and the National Tube Company have close relations to each other?

A. That would be my judgment, or, rather, my idea, that they probably do in the matter of this distribution of pipe.

Q. If you are correct in your assumption, the one advantage they have is in having, through the Crane Company, substantially a warehouse there, and that is an advantage to them in enabling them to secure your business?

A. I don't know anything about that. All I know is that the Crane Company have a warehouse there, and I can make very advantageous trades with the Crane Company.

Q. To get pipe?

A. To get pipe out of their stock. Whether it is the National Tube Company's pipe or not, I don't know.

Q. You stated that it was 80 or 85 per cent. National Tube Company's pipe. Where is it shipped from?

A. I have no idea where it is shipped from.

MR. REED: Ask him whether it is included in that 80 or 85 per cent., within the percentage he said he got from the National Tube Company.

By MR. COLTON:

Q. When you stated on your direct examination that you got 85 to 90 per cent. of that pipe from the National Tube Company, you were giving your best knowledge and belief, were you not?

A. Yes, including the pipe I got from the Crane Company as a part of that.

Q. Yes, you included that, based on all the knowledge you had?

A. I have no knowledge at all; that is just my opinion of it. It is a kind of general idea, I think; I do not know where

I got it from. Nobody ever told me that had any authority to tell me so.

Q. They didn't tell you, those who had authority, but that is generally understood between you and others in the trade?

A. It is generally understood. That is the way I understand it, at least.

Q. And it is generally understood in the trade, so far as you know?

A. I think so.

Q. And you have been in the trade for 40 years?

A. About 40 years; either 39 years and a half or 40 years. I do not know just when I did go into it, the exact month.

Q. When did you first get quotations from the Tennessee Coal, Iron & Railroad Company on bar steel?

A. I couldn't tell you; I could only guess at that.

Q. Did you get quotations on bar steel from the Tennessee Coal, Iron & Railroad Company before the United States Steel Corporation absorbed them?

A. I couldn't tell you. I have forgotten when they started to make steel. I know they were fooling with steel there a long time; I went over there and saw them trying to make it at one time, and they were making a failure of it, my recollection is.

Q. You do not know when that was?

A. I have forgotten the year.

Q. Now, then, did you buy steel bars or get quotations from the Tennessee Coal, Iron & Railroad Company before the so-called panic of 1907?

A. I don't recall. Just for a general flier, I would say yes, but I don't recollect.

Q. Did you get quotations from the Carnegie Steel Company before 1907 on steel bars?

A. Before 1907?

Q. Yes, before the panic of 1907, the so-called panic?

A. From the Carnegie Steel Company?

Q. Yes.

A. Yes, sir.

Q. And did you get quotations from the Illinois Steel Company?

A. Very seldom. I don't recollect doing any business with the Illinois Steel Company.

Q. To the best of your recollection, the Tennessee Coal, Iron & Railroad Company and the Carnegie Steel Company competed for your busines before the so-called panic of 1907, in steel bars?

A. I don't recollect. It seems to me the Tennessee Coal, Iron & Railroad Company went into the United States Steel Corporation before that, didn't it?

Q. No, it went in there just at the time of the so-called panic of 1907.

A. Well, then, if it was before that, I would say yes.

Q. You mean, if the Tennessee Company was outside of the Corporation before?

A. If they were making steel bars at that time, they were competing for our business, because we did more or less business with that concern before they went into the United States Steel Corporation.

Q. Could you give me any idea of how much business you did with them before they went in, in tonnage?

A. No. Then I did business at one time with the Birmingham Iron Company, and I did business at one time with the Alabama Iron Company, I think it was, away outside in the woods here.

Q. The Birmingham Company, did they make steel bars?

A. No, I don't think so; they made iron bars.

Q. And the other company that you named, did they make steel bars?

A. No, they made only iron bars.

Q. Now, in regard to hay ties, poultry netting and horseshoes, your percentage from the American Steel & Wire Company is about the same as it was in other wire products, is it not?

A. No, not in horseshoes.

Q. Well, take out the horseshoes and make it hay ties and poultry netting.

A. Yes, outside of horseshoes; my percentage of horseshoes is greater on the outside.

Q. In speaking of horseshoes, are you confining yourself to steel horseshoes?

A. I believe our shoes are all steel shoes; I do not think we buy any iron shoes.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Do you know whether or not the Crane Company in its warehouse at Savannah carries a consigned stock of the National Tube Company?

A. I do not know. That is my impression.

Q. And based on that impression, you made the statement that 85 to 90 per cent. of your purchases were from the National Tube Company, because you treated what you got from the Crane Company warehouse as National Tube Company's pipe?

A. National Tube Company's pipe, yes.

ISAAC A. HAAS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Atlanta, Georgia.

Q. What is your occupation?

A. President of the Southern Spring Bed Company.

Q. How long have you been president of that company?

A. Thirteen years.

Q. Who does the buying of steel material for it?

A. I do.

Q. Have you done it throughout the thirteen years?

A. Yes.

Q. Do you see the quotations that come in from the different manufacturers of steel products?

A. Yes.

Q. Do you buy on a competitive basis?

A. Yes.

Q. You buy bedstead tubing, do you?

A. Yes.

Q. About what tonnage?

A. I get about six cars a year; that would be 120 to 150 tons, I imagine.

Q. What companies quote to you on bedstead tubing that you buy?

A. All my tube comes from the Elyria Steel & Iron Works, of Elyria, Ohio.

Q. Does the National Tube Company quote to you on bedstead tubing?

A. They have quoted me, yes.

Q. Successfully or unsuccessfully?

A. Unsuccessfully for quite a number of years. Some years back I used to buy from the National Tube Company, but their tubing is a little softer than I like, and I buy rerolled tubing from the Elyria Company.

Q. And you find that they are more satisfactory than the National Tube Company?

A. I like it better. Some folks like the National better, but I like the Elyria better.

Q. Are there any other companies that quote you on tubing?

A. There is the Danville Tube Company, of Danville.

Q. That is the Danville Structural Tubing Company?

A. Yes.

Q. Does the Calumet Company quote to you also?

A. Recently.

Q. You do not buy any of your tube, then, from the National Tube Company?

A. Not at all; I have not for, I guess, eight or nine years.

Q. Do you buy spring wire and tinned wire?

A. We buy all kinds of spring wire, yes; tinned and black.

Q. About what tonnage annually?

A. I expect my tonnage would run from 1,000 to 1,200 tons a year.

Q. Do you buy helical springs too?

A. Yes.

Q. About what tonnage?

A. Between 100 and 150 tons a year.

Q. What companies quote to you on these wire products that you buy?

A. On wire?

Q. Yes.

A. We get quotations from the Atlanta Steel Company and the American Steel & Wire Company, and the Morgan Steel Company.

Q. Do the Wright Wire Company quote to you, the Wright Wire Company, of Worcester?

A. We formerly bought from them, but we have not bought from them recently, though. Formerly we bought also from Roebling, but we have not asked them for any recent quotations. I believe that is about all the quotations we get.

Q. Do you ever get quotations from this company in Alabama, the Gulf States?

A. Yes; we recently made a purchase from them—over in Gadsden.

Q. That is what I mean; in Gadsden, Alabama.

A. Yes; I have forgotten the name of them.

Q. Is that the Gulf States Company?

A. I believe so.

Q. It used to be called the Southern Company?

A. Yes, it used to be called the Southern—Schuler's old plant.

Q. What percentage of your wire products of all kinds do you get from the American Steel & Wire Company?

A. I imagine, as near as I can come to it, somewhere between 40 and 50 per cent. from them.

Q. Where do you get most of the balance?

A. In Atlanta; right here.

Q. From the Atlanta Steel Company?

A. Yes.

Q. Now, do you buy bar mill products too, such as hoops, bands and small angles?

A. We buy hoops and bands and also angles.

Q. About what tonnage each year do you buy of those?

A. Of hoops and bands I expect I get about 60 tons, and probably 150 to 200 tons of angles.

Q. Those are small angles, are they?

A. Small angles, yes.

Q. And what sizes are they?

A. They run from three-quarters by three-quarters to an inch and a half by two inches.

Q. What companies quote you on those bar mill products?

A. The bands and hoops I get altogether from Atlanta; I do not ask many quotations from the outside on account of the quality. We have very good open hearth angles here. We did get quotations—I got quotations from the Alton mills at Alton, Illinois, and got quotations from the Knoxville mills, and I guess from several others; I don't recall the names, but I always give the preference to our local company.

Q. On account of quality?

A. On account of quality. They have a very good open hearth system here, and we have a better quality of steel than we can buy anywhere else.

Q. Does the Sharon Steel Hoop Company quote you on any of these products?

A. I buy one class of hoop from the Sharon Steel Company.

Q. What kind is that?

A. That is limed and oiled.

Q. That is, it is a heat treated product?

A. Yes; but a very small quantity, about ten tons a year.

Q. Do you buy bar mill products from the Southern Steel Company too? That is, the Gadsden Company?

A. No; they quoted us, but we haven't bought any.

Q. They did quote to you?

A. Yes, but we haven't bought any.

Q. How about the Tennessee Coal, Iron & Railroad Company; do they quote to you?

A. They have not recently; years ago we had quotations from them.

Q. You have not bought any from them?

A. No, sir.

Q. Do the Morgan Steel Company and the Carnegie Company quote you on these products?

A. I buy occasionally from the Morgan Steel Company and the Carnegie Steel Company. They only make new angles, you know; they do not use the re-rolled angles. They do not make a hard angle, and our business requires a hard angle.

Q. And you do not buy from them for that reason?

A. I don't buy from them for that reason.

Q. Now, Mr. Haas, take the prices that are quoted to you by these competing mills on these different products: are they uniform or do they vary?

A. Oh, they vary all the time.

Q. How long has that been so?

A. My recollection is that it has always been so.

Q. Is there keen competition for your business?

A. There sure is.

Q. And that has been so for a good while, has it?

A. Yes; the competition is a good deal a matter of the activity of the man trying to buy; it altogether depends upon the industry of the man buying, how much competition he can have.

Q. That is, how he plays one off against the other?

A. Yes.

Q. Have you been successful in doing that?

A. Sometimes, yes.

Q. Has there been any indication of a combination that fixed the prices of these materials that you bought?

MR. COLTON: Wait a moment; I object to this as calling for a conclusion upon a state of facts not revealed to the court, and the witness not knowing all the various combinations there have been between these different manufacturers from time to time.

THE WITNESS: Will you repeat the question?

(The question was repeated by the stenographer.)

THE WITNESS: I do not know of any.

By MR. REED:

Q. There has been no indication apparent to you?

A. No apparent indication.

Q. The Roebling Company has submitted quotations to you?

A. Who is that?

Q. John A. Roebling's Sons, of Trenton.

A. Not recently; I formerly bought from them.

Q. Back in 1906 and 1907 did you buy any wire products from them?

A. Yes.

Q. Did they ever offer to you particularly advantageous terms?

A. Very.

Q. On a standing contract?

A. Yes.

Q. Tell us that incident, will you?

A. Well, there was a big fight on between the American Steel & Wire Company and Roebling at that time, and at that time they offered to duplicate any price; in fact, they offered to go lower than any price quoted by the American Steel & Wire Company.

Q. Who made that offer?

A. Roebling.

Q. They offered to go lower than any price quoted by the American Steel & Wire Company?

A. Yes.

Q. And did you accept that?

A. No, we didn't accept.

Q. Didn't you want to tie yourself down to one concern?

A. We got a price that we thought was satisfactory from the American Steel & Wire Company, and we did not go behind it. I will correct that a little; we did give Roebling, on one grade of wire—we gave them a contract; on the other grades we gave it to the American.

Q. How about the quality of the steel products that you get from the Steel Corporation?

A. As compared with the others?

Q. No; what has been the quality of the products that have been made by the Steel Corporation?

A. Usually they are good.

Q. Has there been any deterioration in quality, so far as you have observed, since the Steel Corporation was organized in 1901?

A. I think there has been a decided improvement.

Q. What has been the tendency of prices, as you have observed them, in steel products of this kind?

MR. COLTON: Just a moment; I object to calling on the witness to make any statement as to that. He has not been shown qualified to make any such statement.

By MR. REED:

Q. Go ahead and answer.

A. Previous to 1902 we had very little business along in steel products; the only thing we did then; that is, our principal purchase in those days was weaving wire, which was made by a concern up in New York State—you mentioned the name a few minutes ago.

Q. Just a moment. I am going to limit the question to a period during which you have been buying fairly large quantities of steel.

MR. COLTON: Will you specify the period a little more definitely than that?

By MR. REED:

Q. Mr. Haas, since 1902, which you have told us is the period during which you have been buying fairly large quantities of steel, what has been the trend of prices on the steel products that you have bought; has it been upward or downward?

MR. COLTON: I object to that form of question on the ground that the witness has not stated that he bought steel in fairly large quantities since 1902, but that prior to 1902

he bought in extremely small quantities. I object further on the ground that it calls for a conclusion upon a state of facts that may be in the witness' own mind, and not disclosed to the court.

THE WITNESS: We paid more for steel at times between 1902 and now than we did in 1902 and also at the present time. There have been variations in the price. I think the price right to-day, you might say—I think my contracts to-day are lower than they were in 1902.

By MR. REED:

Q. Has the general tendency been upward or downward in steel?

MR. COLTON: I object on the ground that the witness has already answered, and answered in such a way as to show that he is not capable of answering the question in the form in which it is put.

By MR. REED:

Q. Please answer, Mr. Haas.

A. The prices on some of the steel products, particularly angles and flat steels, are less now than they were in 1902. At times they have been somewhat higher, but the general tendency has been a little downward.

Q. What has been the tendency of the other materials that you have been buying, such as cotton ticking and other supplies?

A. There you might say, in the same way, they have at times been less, and at times been higher than they are right now; but just at the present time they are very much higher than they were in 1902.

Q. At present they are higher than in 1902?

A. Yes.

Q. And the present steel prices are lower than they were in 1902?

A. Yes, sir.

Q. How about labor? Has that gone up or down?

A. That has advanced about 200 per cent.

Q. How about rent? Has that gone up or down?

A. It has doubled.

Q. How has the record of the Steel Corporation been with you in regard to promptness in making deliveries?

A. No complaint about that.

Q. It has lived up to its promises, has it?

A. Fairly prompt; especially when you don't need the goods. When you need them, they don't come so quick.

Q. Has its system of warehouses been of any advantage to you?

A. They have no warehouse here.

Q. They have in Savannah, have they not?

A. I don't think they carry our line of goods.

CROSS EXAMINATION

By MR. COLTON:

Q. What tonnage did you buy in 1913 of bedstead tubing?

A. I bought six cars; I expect they weighed 20 or 25 tons to the car; about 150 tons in all.

Q. And your purchases for the preceding years would be not much greater than that, would they?

A. For when?

Q. For the preceding years.

A. No; they would be less than that, because my business on that particular line has increased.

Q. Your tonnage, then, is very small in that as compared with the other products you purchased?

A. Yes, sir.

Q. Almost insignificant?

A. Yes—pretty good, though, when you go to pay the bills.

Q. Do you know whether the tubing you buy is brazed tubing?

A. Yes; re-rolled brazed tubing.

Q. You do not know whether the National Tube Company manufactures that style of tubing or not?

A. I don't think they do.

Q. Coming down to the products manufactured by the United States Steel Corporation—the wire products—during

1913 I understood you to testify that you purchased about 40 to 50 per cent. from the American Steel & Wire Company?

A. Yes.

Q. And from others you purchased about 50 to 60 per cent.?

A. Yes.

Q. Now, let us confine our attention to that portion of the wire products which comes from outside of the State of Georgia. Have you not purchased practically all of those from the American Steel & Wire Company?

A. Well, I expect within three or four per cent.

Q. Within three or four per cent. of all of it?

A. Yes.

Q. In other words, of wire products that moved from State to State you have purchased about 96 per cent. from the American Steel & Wire Company?

A. Yes.

Q. Locally you purchased about 50 to 60 per cent. from the Atlanta Company?

A. Yes.

Q. And your wire tonnage is about six or seven times as big as your hoop and band tonnage and angle tonnage combined, is it not?

A. No; not the combined. I use about practically five or six times as much.

Q. During the year 1913 you purchased practically all of that tonnage within the State of Georgia, did you not?

A. Not of the pipe.

Q. Of the hoops and bands and angles, I am speaking.

A. Altogether.

Q. By "pipe" do you mean tubing?

A. Tubing, yes.

Q. And you only purchased 25 tons of that?

A. No, I purchased 150 tons; six cars of 25 tons each.

Q. Oh! Of 25 tons each?

A. Yes.

Q. In your direct examination, when you said you purchased from the American Steel & Wire Company 40 or 50 per cent., were you speaking of the year 1913?

A. Yes.

Q. Or were you speaking generally?

A. I was speaking of 1913. I expect that would hold generally down to, I think it was, about 1904 or 1905.

Q. Since the Atlanta Company went into the business you have been purchasing a considerable portion from them?

A. Since they have been able to make the wire satisfactorily.

Q. And you do not recollect just how many years they have been manufacturing?

A. It has been about three or four years since they have been making it satisfactorily.

Q. Your wire is of what size?

A. The sizes range from three, the coarsest, to twenty-two, the finest.

Q. No. 3 is about three-sixteenths of an inch, is it?

A. Between that and a quarter.

Q. And 22 is very fine?

A. Almost as fine as a thread.

Q. In 1901 and 1902 do you recollect what percentage you purchased from the American Steel & Wire Company?

A. I could not recollect that far back. In those years we were using principally weaving wire. They were the principal manufacturers and the best manufacturers of weaving wire, and I imagine my tonnage, the percentage in those years, was greater than at present.

Q. But you do not recall just what it was?

A. No; I could not recall.

Q. Your recollection back of the last two or three years is not very definite as regards prices or quotations or tonnage?

A. Yes; fairly distinct.

Q. Suppose in 1910 you give me what companies quoted you on your coarser grade of wire.

A. Quite a number of them: the Morgan and the Southern, of Birmingham—in fact, I bought from them then, but they could not deliver—and a concern up in New York State, the name of which I have forgotten. I never can recollect it.

MR. REED: You mean Roebling?

By Mr. Colton:

Q. Wickwire?

A. I would not do any business with Roebling.

Q. Wright?

A. Wright. I think that was about the time.

Q. Is that all you can think of?

A. I think those are all.

Q. You did not get any quotations from the American Steel & Wire Company?

A. I am talking of those outside of the American and Atlanta, taking it for granted that we always got quotations from them.

Q. As by all odds the biggest concern in the business? What percentage did you buy from Morgan in 1910?

A. A very small percentage. I could not say what, but it would be small.

Q. And from the Southern you did not get any, but you tried to get some?

A. I bought, but I did not get it.

Q. You did not succeed in getting it?

A. No.

Q. Do you know whether that was one of the times they were going into the hands of a receiver or not?

A. No, I do not. I know this: They sent me a sample of wire which was satisfactory, and on the basis of that sample I gave them an order; and I bound them up in a contract that the wire was to be equal to that sample or we would not accept it.

Q. And it was unsatisfactory?

A. I don't think they could produce it equal to the sample, because I found out afterwards that they had bought the sample from Roebling.

Q. What percentage did you get from Wright?

A. A very small percentage. I don't recollect.

Q. What percentage did you get from the American Steel & Wire Company?

A. In 1910?

Q. Yes.

A. A very large percentage. In that year I think we got somewhere about 60 or 70 per cent.

Q. You did not mention the Atlanta Company, but I wondered——

A. (Interposing) The Atlanta Steel Company is where we got the balance from; probably in that year we got about thirty per cent. from them.

Q. You got the balance from them?

A. Yes.

Q. This was on what you call the coarser wires; what would you include in that term?

A. What we use in the manufacture of spiral springs.

Q. What did you include within that term?

A. Sizes running from 3 to 14.

Q. What base price did you pay the American Steel & Wire Company in the year 1910?

A. I could not say exactly, but I believe the 1910 contract was $1.96 delivered at Atlanta. That would be $1.50 base Pittsburgh. That is my recollection. I think that was my contract.

Q. Did you buy the same kind of wire from Wright that you bought from the American Steel & Wire Company?

A. When we bought from Wright it was weaving wire.

Q. A different kind?

A. Yes, 22 gauge.

Q. Did you buy any of the same class of wire from Morgan that you bought from the American Steel & Wire Company?

A. Yes.

Q. What did you pay Morgan in 1910?

A. I don't recollect. I did not buy much from them. Their prices must have been the same or better, or else I would not have bought from them.

Q. Then they either had the same price or a lower price?

A. Yes; or I would not have bought from them.

Q. You would have taken the American Steel & Wire Company if the prices had been the same?

A. Certainly; I would at the same price.

MR. REED: Is that on account of quality?

THE WITNESS: On account of quality, yes.

By MR. COLTON:

Q. Take the year 1912; do you remember what you paid the American Steel & Wire Company in 1912, base price?

A. The f. o. b. price was $1.81. That would be $1.35 f. o. b. Pittsburgh.

Q. In 1912 did you buy wire from any other company?

A. I got some from Morgan during that time also.

Q. Do you remember what you paid then?

A. About the same price or a little less. I paid Morgan a little less than I did the American Steel & Wire Company.

Q. In 1909 what did you pay the American Steel & Wire Company on this coarse wire?

A. I do not recollect what my contract was that year. It ran pretty nearly the same; probably it would not vary more than five to ten points one year and another, you know.

Q. The prices ran along pretty nearly the same?

A. Yes; very nearly the same.

Q. How many different prices have you gotten from the American Steel & Wire Company in the course of a year?

A. Always not less than two.

Q. They sent you a notice of their price when they advanced the price?

A. No, when we go to make a contract, we put out letters to the different people from whom we would consider bids. Then we get their prices.

Q. Do you do anything before you put out those letters by way of looking up prices?

A. We look in the papers to see the condition of the markets.

Q. You look up the market prices first?

A. Yes. Then when we want to make a contract, that usually happens along about the last of the year and the middle of the year. We make two contracts a year, because the general custom of the trade is to make deliveries from January to July and from July until January. We make contracts that way.

Q. In addition to that, what I was asking about was: Does not the American Steel & Wire Company send you a notice of its price when it raises its price?

A. Every time there is an advance, no matter whether we have a contract or not, we get a notice from the American Steel & Wire Company that there is an advance; that they are making an advance.

Q. Do they notify you when they lower the price?

A. I have not seen any notice yet. I notify them.

Q. In 1909 can you give me the different prices you paid?

A. No, sir; I could not say except in a general way.

MR. COLTON: That is all.

MR. REED: That is all.

(Whereupon an adjournment was taken until Friday, January 9, 1914, at 10:30 o'clock a. m., to meet at the Federal Building, in Birmingham, Alabama.)

ONE HUNDRED AND THIRTY-SEVENTH DAY.

FEDERAL BUILDING,
Birmingham, Alabama,

Friday, January 9, 1914.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the defendants, MR. REED.

JAMES BOWRON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Bowron?

A. Birmingham, Alabama.

Q. How long have you lived here?

A. Since the 1st of March, 1895.

Q. Prior to that time where did you live?

A. From 1844 to 1877 in England; and from 1877 to 1882 in South Pittsburgh, Tennessee; from 1882 to 1895 in Nashville, Tennessee.

Q. Commencing with 1877, when you came to this country, what was your occupation?

A. I came to this country in 1877 as the general manager, which, under English nomenclature, really meant practically president and general manager of an English company known as the Southern States Coal, Iron & Land Company.

Q. What was the principal business of that company?

A. Mining coal, making coke, producing pig iron, manufacturing foundry products and railroad cars, and, incidentally, building and developing the town of South Pittsburgh.

Q. That company made no steel, did it?

A. None whatever.

Q. Where were its blast furnaces?

A. At South Pittsburgh, Tennessee.

Q. How far is that from Nashville?

A. By rail, 129 miles. In a direct line, about 100 miles.

Q. How long did you continue to be general manager of that company?

A. Until it sold out to or merged with the Tennessee Coal, Iron & Railroad Company in the month of January, 1882.

Q. And did you then assume an office with the Tennessee Company?

A. I passed immediately into the office of treasurer of the Tennessee Coal, Iron & Railroad Company.

MR. COLTON: At what date?

THE WITNESS: On or about the 1st of February, 1882.

By MR. REED:

Q. How long did you continue to be treasurer of the Tennessee Company?

A. Until the spring of 1886, when I became general manager of that company.

Q. Just give us, in sequence, the offices that you held with the Tennessee Company.

A. In the autumn of that year I again assumed the position of treasurer, which I held until 1896. In the autumn of 1896, or the spring of 1897, I became first vice-president, still retaining the office of treasurer; and continued to hold those offices until I left the company on the 1st of May, 1901.

Q. As first vice-president and general manager from 1896 to 1901, were you the chief executive officer of that company in Alabama?

A. I was, the president not living within the State.

Q. Where did the president live, Mr. Bowron?

A. In Nashville, Tennessee.

Q. When did the Tennessee Company first engage in manufacturing in the State of Alabama?

A. When we acquired, in October, 1886, the property of the Pratt Coal & Iron Company.

Q. That was near this city, was it?

A. The Pratt Coal & Iron Company embraced a part of the coal mines formerly the property of the Pratt Coal & Coke Company, the Alice furnaces, formerly the property of the Alice Furnace Company, and the Lynn Iron Works, which had been a separate corporation, all of them being in or immediately adjacent to the city of Birmingham.

Q. Prior to 1886 how many furnaces did the Tennessee Company operate in the State of Tennessee?

A. Two at South Pittsburgh, one at Cowan.

Q. How many furnaces did it acquire in 1886, in Alabama, by taking over the Pratt Company?

A. Two, namely, the Alice furnaces in Birmingham.

Q. Then, subsequent to that, were any furnaces built by your company?

A. In 1887 and until 1888, we constructed four blast furnaces at Ensley.

Q. What were the next furnaces that were acquired or built?

A. In 1892 we acquired the property of the de Bardeleben Coal & Iron Company, which embraced two furnaces at Oxmoor and five at Bessemer.

Q. By the year 1898, Mr. Bowron, how many blast furnaces did the Tennessee Company own?

A. From my memory, that would be fourteen.

Q. And three of those were in Tennessee?

A. Yes.

Q. And the other eleven in Alabama?

A. Yes.

Q. How was the market for iron about that time? Was it growing or shrinking?

A. The market was steadily shrinking.

Q. Was the iron business in this district prosperous then?

A. It was very far from it.

Q. Were you getting good prices for your iron?

A. Why, in the first week of September, 1896, I can remember selling 5,000 tons——

MR. COLTON: Just a moment. The question was about 1898. You do not want to talk about 1896, do you?

MR. REED: I will take the answer, and you can put in your objection afterwards, Mr. Colton.

MR. COLTON: One moment. I object to the witness volunteering a statement concerning which he has not been questioned.

By MR. REED:

Q. Now, please continue your answer, Mr. Bowron.

(The stenographer read the unfinished answer of the witness.)

THE WITNESS: (Continuing) I can remember selling 5,000 tons of 2 Foundry at $6.25 per ton.

By MR. REED:

Q. Had the situation improved much in 1898?

A. On the contrary, the lethargy of business incidental to the foreshadowing of the coming Cuban war was so great that we found it necessary to sell our iron in foreign countries, and worked up, during the year 1897, quite an extensive trade in shipping iron to the Mediterranean and North Sea ports, and, to some extent, even to Japan and other foreign countries.

Q. What kind of prices were you getting for your pig iron that you were exporting in those years?

A. I think I remember selling a cargo of 4 Foundry for shipment to Japan in 1897 at $5.75 free on cars at Bessemer, or its equivalent put on board ship at Mobile.

Q. Was that profitable, Mr. Bowron?

A. It was not; it was barely covering the out of pocket cost, without leaving anything for the depreciation of the plant or the exhaustion of the minerals.

Q. Was any suggestion made at that time of the Tennessee Company's entering the steel business?

A. Yes.

Q. Tell us about that, if you please.

A. Mr. M. H. Smith, the president of the Louisville & Nashville Railroad Company, came to Birmingham and talked with Mr. Baxter, our president——

MR. COLTON: Just a moment. May I interrupt long enough

to suggest that the witness should only give what he knows of his own personal knowledge? You asked him for his experience.

MR. REED: If he says anything that appears to be hearsay, I would suggest that you enter an objection after the answer is completed.

MR. COLTON: I do not know that I can wait until the answer is finished; I can not remember all of it, perhaps.

(The question and answer were repeated by the stenographer.)

THE WITNESS: (Continuing) ——stating that unless the Birmingham district went into the production of steel, in his opinion the entire district would—to use the common expression—go broke, and that the Louisville & Nashville Railroad had at least fifteen millions of dollars invested in this district, and could not afford to lose it.

By MR. REED:

Q. What suggestion did he make then?

A. He insisted that as the largest producer of iron, our company should go into the manufacture of steel, and that if we would not do so, then the Louisville & Nashville Railroad itself, having an interest in the Birmingham Rolling Mill Company—would subscribe additional funds to that company to enable it to increase its production of steel.

Q. What was the attitude of your executive committee toward that suggestion, Mr. Bowron?

MR. COLTON: I object to the preceding statement, it not appearing that the witness was present when it was made, and I object to any statement as to what the executive committee did, unless the witness can testify as to having been present when made.

(The question was repeated by the stenographer.)

THE WITNESS: Shall I proceed, notwithstanding the objection?

MR. REED: If you please. The objection is addressed to the record, and is intended for the record, and I hope you will not allow it to disconcert you.

THE WITNESS: Not in the least, but I thought possibly the Examiner might pass upon it before I proceeded.

MR. REED: That is not the custom.

THE EXAMINER: The objection is for the record.

(The question was again repeated by the stenographer.)

THE WITNESS: Shall I say, in partial answer to that objection——

MR. REED: No, do not answer the objection; just ignore it, if you please.

THE WITNESS: The executive committee received a letter drawn up by the president of the Tennessee Company after consultation with me, it having been submitted to me before it was signed and forwarded, in which Mr. Baxter, our president, urged upon the executive committee of the Tennessee Company the argument of Mr. Smith, and urgently requested our executive committee to take such steps as might be feasible toward permitting our company to enter upon the manufacture of steel, and the executive committee passed a resolution which appears of record on its minutes, of which the certified copy was sent to me, and with which I am therefore familiar, declining to enter into the manufacture of steel.

MR. COLTON: I object to his stating anything in any resolution, the record being the best evidence of it.

By MR. REED:

Q. Please proceed.

A. (Continuing) And authorizing the officers of the company, instead thereof, to enter into a contract with the Birmingham Rolling Mill Company agreeing to subscribe $100,000 towards its capital, making payment of the sum over a period of one year in coal and iron at the prevailing market prices, and further authorizing the officers of the company to agree with the Birmingham Rolling Mill Company that if it should enlarge its production of steel the Tennessee Company would abstain from its manufacture for a period of years.

MR. COLTON: Just a moment. I object to all this testimony on the ground that according to the witness' own statement it is a matter of record, and the record is the best evidence; the testimony is secondary.

By Mr. Reed:

Q. What was your personal attitude toward the Tennessee Company's entering into the steel business at that time? Were you anxious that it should be done?

A. I was so extremely anxious that I had been working with a single heart for six years to bring about that result. I went to New York for the express purpose of persuading our directors to go into the manufacture of steel in 1892, and their attention was diverted by the suggestions of other people to the greater desirability of our acquiring the de Bardeleben Coal & Iron Company, and thus in a sense largely stiffening the market by our control of the production of pig iron, and they took that step instead of taking any steps at that time to go into the manufacture of steel.

Q. Then what did you do after you had received this decision of the executive committee refusing to enter into the manufacture of steel?

A. I wrote to the committee a letter in the week almost immediately preceding Christmas, 1897, stating that——

Mr. Colton: Just a moment; I object to his giving any statements from the letter, the letter being the best evidence; the testimony of the witness is secondary.

The Witness: I have certified copies of some of this correspondence, if necessary—stating that if we were to remain in the head of the procession instead of becoming the tail of it, we must go into the manufacture of steel, as it was impossible for us to market our growing production of pig iron, as the uses of pig iron were being steadily curtailed by the introduction of steel, and that if our directors, who were such busy men, with many cares and responsibilities upon them, could not undertake to raise the necessary capital for us to build a steel works, and would turn their officers loose, we would build the works and find the money ourselves with which to build them.

By Mr. Reed:

Q. What did they do in response to that suggestion?

A. They wrote me a letter, which I received as a Christmas gift, stating that they had——

MR. COLTON: Just a moment. I object to this testimony, the letter being the best evidence.

MR. REED: Can it not be understood, Mr. Colton, that that objection applies to all of Mr. Bowron's answers?

MR. COLTON: I do not know how many times he is going to speak from letters. It may be understood in reference to any statement that he may make from letters, if he always states when he is talking from documentary evidence. I do not know when he is talking from documentary evidence and when he is not.

By MR. REED:

Q. Now, go ahead, please, Mr. Bowron.

(By request the stenographer repeated the unfinished answer of the witness.)

THE WITNESS: They wrote me a letter stating that they had considered my letter with much interest, and that they were perfectly willing to turn the officers loose, and would welcome very hospitably any plan which we might submit to them bearing in mind that the company had no money available for such a purpose.

By MR. REED:

Q. This was in what year, Mr. Bowron?

A. In December, 1897.

Q. What did you do then?

A. In a conference between my colleagues, President Baxter, Vice-President Shonk and General Manager McCormick and myself, we agreed first of all to take the matter up with the L. & N. Railroad, and accordingly had a conference with Mr. Smith.

Q. Not to go too much into detail as to the methods or sources from which the money was raised, Mr. Bowron, let me ask you first: Did you raise funds for the erection of a steel works, and if so, how much did you raise?

A. After seven months' diligent and arduous work we raised $1,100,000, becoming effective in the summer of 1898.

Q. And to what new construction did you apply that money?

A. To the construction of the first steel works that were built at Ensley.

Q. And of what did that steel works consist?

A. Of ten open hearth furnaces and a blooming mill.

Q. Were those what were known as the tilting furnaces at Ensley?

A. They were.

Q. Down to what size billets could your blooming mill roll?

A. Four inches square.

Q. That was the smallest size that it could make, was it?

A. Yes.

Q. When did you have your open hearth furnaces ready for use, and when was your blooming mill completed and ready for use?

A. I do not remember the precise month, but it was in 1889, the following year.

Q. Is that the first year in which you rolled your own steel?

A. Yes.

Q. Did you have any finishing mills at all?

A. We had a small mill at Bessemer at that time, only available for rolling iron or small sizes of steel. It was not strong enough to roll any heavy steel.

Q. What was it—a bar mill?

A. Bar and plate.

Q. And when were your first products made on that mill?

A. You mean the first iron products?

Q. Oh, that was built to roll puddled iron, was it?

A. Yes. We had acquired several years previously the Bessemer rolling mill as an iron rolling mill.

Q. Then in 1899 when your open hearth furnaces and your blooming mill were completed, the only finishing mill that you had was this old combination bar and plate mill which had been built to roll iron? Am I correct in that?

MR. COLTON: I object to counsel characterizing it as "old." I do not think the witness has so characterized it.

THE WITNESS: That is strictly correct except as to such marketable billets as we could roll at Ensley.

By Mr. Reed:

Q. I was thinking of billets as a semi-finished product. At any rate the only rolling mills that you had were this blooming mill which you have described and this combination plate and bar mill, which you had taken over from this iron rolling concern?

A. That is quite correct.

Q. From that time until May, 1901, when you ceased to be first vice-president, was any further finishing capacity acquired or constructed?

A. We started work on the construction of a rail mill plant, but we had not money enough to finish it during my connection with the company.

Q. During your connection with the company and after this steel works was completed, what was the financial condition of the company, Mr. Bowron; was it good or bad?

Mr. Colton: Objected to as irrelevant.

The Witness: It was always bad.

By Mr. Reed:

Q. Was the company paying dividends at that time?

Mr. Colton: Objected to on the ground that the books of the company are the best evidence.

The Witness: What time are you specifically referring to?

By Mr. Reed:

Q. The time I mentioned in the preceding question—that is, from the completion of the steel works in 1899 up to your resignation as vice-president in 1901.

A. That company commenced to pay dividends on its common stock in 1900.

Q. Were those dividends earned?

Mr. Colton: I object, on the ground that the witness is not shown to be competent to answer. The corporation had no right to pay dividends unless they were earned.

By Mr. Reed:

Q. You may answer, please.

A. That question is a little difficult to answer. If adequate allowances had been made for the inferiority of con-

struction and for the necessity of reconstruction of some parts of the company's property, and for the exhaustion of its minerals, I would say that those dividends had not been earned, although from the standpoint of the books as they were then kept, there did appear to be a surplus, which, as a matter of bookkeeping, was available for the payment; but the cash was not available in fact.

Q. Where, in fact, was the money obtained with which those dividends were actually paid?

A. The disagreeable necessity fell upon me of borrowing it.

MR. COLTON: Just a moment. I object on the ground that the books of the company are the best evidence, and that the witness is stating matters of record, his testimony therefore being secondary.

By MR. REED:

Q. How was the market at that time—speaking now of the period that elapsed between 1899 and your resignation in 1901? How was the market at that time for the iron and steel products of the company?

A. The year 1900 witnessed a very decided slump in prices. There was a drop of several dollars a ton in a single day.

Q. And after prices had fallen, was or was not the iron and steel business of the company profitable up until the time you left it?

A. We were losing money upon the steel that we made, and doing little more than breaking even upon our pig iron.

Q. Between 1901, when you resigned from the vice-presidency of the Tennessee Company, to the year 1910, were you interested or connected with the manufacture of steel or iron?

A. I was not.

Q. When did you re-enter that business, if at all?

A. On the 6th of August, 1910.

MR. COLTON: Let me get this right. From May, 1901, to August, 1910, you were not engaged in the steel business; is that correct?

THE WITNESS: That is correct.

By Mr. Reed:

Q. Under what circumstances did you re-enter the steel business?

A. I was solicited to enter the service of the Southern Iron & Steel Company to take charge of it, it being at that time seriously embarrassed.

Q. What office, if any, did you take in that company?

A. I assumed the office of vice-president and treasurer and held it until February, 1912, when I became president.

Q. That company, you say, was seriously embarrassed? You mean in a financial way, I suppose?

A. Yes.

Q. Did its embarrassment lead to its failure?

A. It did; it was adjudged bankrupt on the 1st day of August, 1912.

Q. During that time, 1910 to 1912, how many blast furnaces had that company?

A. At first it had four, at Gadsden, Trussville, Rising Fawn and Chattanooga.

Q. How many of those were operated at any time between 1910 and 1912?

A. Two, Trussville and Gadsden.

Q. Where were its ore mines?

A. Its red ore mines were at Crudup.

Q. How far is that from Birmingham?

A. A distance of 63 miles, northeast on the main line of the Alabama Great Southern Railway.

Q. Had it brown ore mines as well?

A. It had many thousand acres of brown ore lands in Barto County, Georgia.

Q. Had it any ore mines on Red Mountain or in Shades Valley?

A. No.

Q. Did it own any ore in that district which lies between Sparks Gap and Morrows Gap along Red Mountain?

A. No.

Q. After it went into bankruptcy in August, 1912, Mr. Bowron, was there any reorganization of that company?

A. A reorganization committee of the company had been

formed in December, 1910, and is still in evidence, having in the meantime changed its base twice.

Q. Was the new company organized to take over any part of the properties of the Southern Iron & Steel Company?

A. Omitting the intermediate negotiations, the final efforts of that committee resulted in the formation of the Gulf States Steel Company, of which I am now president.

Q. When did that company take hold of any part of these properties?

A. To give an orderly recital, in point of time, I held the properties as receiver of the Southern Iron & Steel Company until the 4th of September, 1912, when I succeeded myself as trustee of the creditors. I sold the property January 31, 1913, and the buyers, Bush & Homan, transferred their ownership to the Standard Steel Company, a temporary holding company formed in the interest of the reorganization committee, and that company in turn sold the whole of the property to the Gulf States Steel Company as of December 1, 1913.

Q. Does the Gulf States Steel Company at the present time own all the properties of the Southern Iron & Steel Company?

A. No; in the autumn of 1911, on my advice we declined to be held responsible for the property of the Georgia Steel Company, including the brown ore lands in Georgia, and the Rising Fawn furnace and other property, which was owned by the Southern Iron & Steel Company through its ownership of all the capital stock of the Georgia Steel Company. I repudiated the ownership, and litigation ensued which is still pending with reference thereto. Then following that——

Q. (Interposing) What we are chiefly concerned with—let me put it this way——

MR. COLTON: I object to interrupting the witness.

THE WITNESS: I had not really finished my answer to that question.

By MR. REED:

Q. I did not mean to be discourteous.

A. Following that, in the spring of 1912, we divested our-

selves of the ownership of the Chattanooga furnace and coal and ore lands tributary thereto, surrendering them to the bondholders of that company, so that at the time of the bankruptcy of the Southern Iron & Steel Company the properties which were still owned were reduced down by cutting off the furnaces at Rising Fawn and Chattanooga and their respective ore and coal lands.

Q. I see. Now, at the present time, if I have correctly understood you, the Gulf States Company is the owner of a blast furnace at Trussville and a blast furnace at Gadsden; is that correct?

A. It is correct partly. It is correct on the record, but as a matter of fact, our ownership of the blast furnace at Trussville is only nominal, as we acquired that property subject to the lien of the Lacey-Buck Iron Company bonds, and have already decided to relinquish that property to the bondholders, so that our blast furnace ownership is practically confined to the furnace at Alabama City, a suburb of Gadsden.

Q. Now, have you at Gadsden any steel works?

A. We have an open hearth steel works, consisting of six stationary open hearth furnaces rated at 50 tons capacity each.

Q. What rolling mill capacity have you there?

A. We have a blooming mill of a capacity of 500 tons per 12-hour turn of four inch billets.

Q. What would be the annual capacity of that blooming mill?

A. Its gross capacity, double turn, is 300,000 tons per annum.

By Mr. Reed:

Q. Have you any finishing mills there also, Mr. Bowron?

A. We have a rod mill.

Q. Of what capacity per year?

A. About 120,000 tons per annum.

Q. Have you a bar mill too?

A. We have a bar mill with an annual capacity of 40,000 tons. I have to take time to consider these answers, because

I have the figures in mind as daily, and I have to work the mental sum.

Q. Have you a wire drawing plant?

A. We have a wire drawing plant, with a capacity of 90,000 tons per annum.

Q. Have you any wire working machinery?

A. We have a wire nail plant with a capacity of 45 to 50 thousand tons per annum, and a barbed wire plant with a capacity of 25,000 tons per annum; also a woven fence department with a capacity of 15 to 18 thousand tons per annum.

Q. What is the present capital of your company?

A. The share capital is $15,500,000; $8,000,000 preferred and $7,500,000 common.

Q. And has the company itself issued any bonds?

A. It has not.

Q. Is it obligated on any bonds of subsidiary companies?

A. It is obligated on the bonds of the Self-fluxing Ore Company, to the amount of $289,000, which it has assumed.

Q. But that amount is the only bonded indebtedness for which it is liable, is it?

A. That is correct.

Q. Directly or indirectly liable, I should have said. Is that correct?

A. That is correct.

Q. Have you, since the reorganization, or in the course of the reorganization, acquired any ore properties, directly or by stock control? If so, tell us about them, please?

A. We have acquired by direct purchase the property formerly owned by the Self-fluxing Ore Company, in Shade's Valley, about two miles south of Oxmoor, on the main line of the Louisville & Nashville Railroad.

Q. How many acres of ore land did you acquire in that way?

A. 1,564 from that company and 40 acres in a subsequent purchase.

Q. When did you buy that from the Self-fluxing Ore Company?

A. We completed the negotiation in August, 1913.

Q. When did the Self-fluxing Ore Company acquire it?

MR. COLTON: Objected to on the ground that the witness is not shown to have any knowledge or to be competent to answer that question.

THE WITNESS: It acquired it on or about the 1st day of January, 1913.

By MR. REED:

Q. From whom?

A. From W. F. Aldrich, of Montevallo and his associate, Mr. John Towers of Birmingham.

Q. Had those gentlemen held it or operated it in connection with any iron furnaces or steel works, or had they held it for investment or re-sale?

A. They had acquired the property for the express purpose of speculative re-sale.

Q. Had that same property been offered to you at any time before August of last year?

A. It was first offered to us in June, 1912.

Q. Why didn't you buy it then?

A. Because the Southern Iron & Steel Company was moribund, and on the edge of the precipice, going over.

Q. It was not financially able to buy it?

A. It could not have bought a box of matches, with a clear conscience.

Q. This property, you say, lies about two miles south of Oxmoor, in Shade's Valley?

A. Yes, sir.

Q. Has the ore been drilled?

A. It has.

Q. How far below the surface of this valley have the ore measures been found?

A. To the top of the big seam was 1902 feet.

Q. That is, below the surface of the ground?

A. From the surface of the valley.

Q. How thick was the big seam at the place it was explored?

A. 19 feet two inches of ore with a four-inch shale parting between the upper and lower ventures.

Q. How does the ore lie? Does it dip much?

MR. COLTON: I object, on the ground that the witness is not shown to have any knowledge of the ore itself, or to have had any knowledge of the drilling; and I object to the witness as incompetent and to the testimony as hearsay.

THE WITNESS: The dip of the ore could hardly be determined from the level of the core which I saw pulled, on account of the narrowness of its section; but my general information on the subject, coupled with the knowledge of the depth of the ore two and a half miles to the westward, where we did put down a drill hole on another property that was offered to us of about 1,200 acres, would indicate that there is a dip of about 200 feet to the mile.

By MR. REED:

Q. That is much less dip than at the outcrop at the Red Mountain, is it not?

A. Why, certainly. That 200 foot to the mile is an advantage, rather than to be dead level, because it gives drainage to one central point for a sump.

Q. 200 feet to the mile dip is about 4 per cent., is it not?

A. Yes, sir; one in 13.

Q. What is the average dip, in per cent., at the outcrop on Red Mountain, if you happen to know?

A. Thirty.

Q. You say you saw the core of this drill hole actually drawn yourself?

A. Oh, yes.

Q. Did you have it analyzed?

A. I had it analyzed in our own laboratory, foot by foot.

Q. Did you find it a self-fluxing ore or not?

A. There is a difference between the various feet, but in the aggregate, some being less and some more, the ore, as a whole, is self-fluxing.

Q. How does its iron content compare with the iron content of the ores that are being mined along the outcrop?

A. I should say that it is from a half to three-quarters of one per cent. better than the best of the Red Mountain mines that I know, the average being 38.65 metallic iron.

Q. In your property?

A. Yes.

Q. 1604 acres of such ore ought to fill the requirements of your company for a considerable time. Have you estimated the length of time that this single tract will supply you?

A. On the basis of our present furnace capacity I estimate that it would supply our requirements for between 450 and 500 years.

MR. COLTON: If it stayed in the receiver's hands most of the time I guess it would last longer than that.

THE WITNESS: On the contrary, we made more money while I was receiver than at any other time. That is why I am trying to live long.

By MR. REED:

Q. How does this ore compare, generally speaking, with the ore that is now being mined at the outcrop? I have not sufficient technical knowledge to ask you about one detail after another, but I wish you would compare the two generally.

A. Not knowing exactly what is in your mind, I would answer that by saying that practically there is no ore being mined at the outcrop, for the ores on Red Mountain were decomposed by the leeching out of the lime, thus softening the ore and leaving the residual component of it richer in metallic iron, and that being more accessible as well as richer in iron has been taken where accessible ever since the iron trade began in this district, and the outcrops have been practically exhausted.

Q. I have used the wrong word. I meant the ore that is being mined from the outcrop, the ore that is being mined by entrance at the outcrop?

A. I consider the tract of ore which we have acquired as being slightly better in quality and distinctly better in thickness than any of the ore mines which are now being worked by slopes driven in from the outcrop.

Q. Were any other ore properties in Shade's Valley offered you for sale in the course of the past year?

A. Yes; we had two other large tracts offered.

Q. Tell us about those, if you please.

A. One tract lying about two and a half miles to the westward of this property which we ultimately bought, known as the Skewes & Draper tract, which lay as we thought inside of the self-fluxing area, and we put down a drill hole in that to a depth of 1,200 feet, and found that the ore was more silicious, and there was not more than seven or eight feet that could be used in my opinion economically in the furnace at all at any price, and having the option on both the properties we relinquished our option on that tract, confining ourselves to the Shannon-McDonough property near Oxmoor.

Q. Which is the one you spoke about first?

A. That is the one which we purchased.

Q. What is the acreage of that tract which you optioned and then relinquished?

A. About 1,200 acres, I should think, from memory.

Q. Tell us about the other property which was offered to you and not accepted?

A. I had an offer from Mr. T. H. Aldrich of a tract of from 1,500 to 2,000 acres lying east-northeast; the nearest point of that to Birmingham lies almost due east from this city across Shade's Valley and at the base of Shade's Mountain, and almost all of the tract lies really under Shade's Mountain.

Q. What was the total acreage of that tract?

A. I think from 1,500 to 2,000 acres.

Q. Was that offered to you after you had bought this Shannon-McDonough tract?

A. No; it was offered to us while we had the option on the Shannon-McDonough property, and we might have taken up the Aldrich tract, but we already had the option on the Shannon property and it would have been very costly to put down drills through Shade's Mountain into the Aldrich property, and we hardly felt that a drill hole on the one 40-acre section of it lying outside of the mountain would give us an adequate test of the whole tract, and so in balancing

between the three properties we concluded to confine ourselves to the Shannon property.

Q. Having taken the Shannon property, would you need the Aldrich property?

A. We would not.

MR. COLTON: I did not understand the witness to say, however, that he had taken that before he gave up his option on the other property.

MR. REED: I did not understand him to say that he had an option on the other property.

By MR. REED:

Q. Now, have you some familiarity with the ores of Red Mountain and the valley lying behind Red Mountain?

A. I have such general familiarity with them as is incident to 27 years official connection with the operations of this district. I have frequently been in the mines; it has been my duty to keep myself informed of the developments of the trade, and I have striven to do so.

Q. Do you know whether or not there have been a number of tracts of ore land in Shade's Valley that have changed hands within the past four or five years?

A. Yes. I have not personally attempted to keep up with the transactions in land, my interest, during the time that I was out of business, in the subject being academic, and whilst I was with the Southern Iron & Steel Company we had no money to buy any with, so that I was not following the trading until it came to a point where in the operation of the reorganization committee it seemed as though it might be possible for us to acquire some interest.

Q. Do you know whether any of the other furnace companies of this district have, within the last few years—I mean within the last four or five years—added to their ore holdings in that district?

A. Mr. Aldrich told me——

MR. COLTON: One moment. I object to the witness' testimony on this subject as hearsay.

THE WITNESS: Mr. Aldrich told me of a large acreage,

which he showed me on his map, that he himself had sold to the Woodward Iron Company.

By Mr. Reed:

Q. From your general knowledge, then, Mr. Bowron, would you say that it was or was not possible for a new company which desired to enter the steel business in Birmingham to obtain by purchase an adequate supply of good ore in this district?

Mr. Colton: I object, on the ground that the witness has already testified that his familiarity with the purchases during the last eight or ten years—I have not the exact dates—has only been academic, and that he has not kept track of it and does not have sufficient knowledge to answer such a question.

The Witness: From the information which I have gathered from the United States Government publications, such as Bulletin No. 400, my conversation with its employee, Mr. Burchard, of the Geological Survey, who has discussed the matter with me as to the ore reserves here, and from the records of drill holes that have been exhibited to me, and from the offers of ore land that have been made to me within the past twelve months, and from my own reasonable knowledge as a mining engineer as to the direction and pitch of the ore, and from my knowledge of its thickening as it flattens out into the basin and improves in quality, and from such knowledge as I have as to the distance to which holdings have been acquired by the operating companies, and from my interest in personally being a stockholder in another company owning hundreds of acres of such ore which has not been taken up, I do believe that, with adequate money, another steel company might be started in this district and acquire adequate supplies of ore upon which to base its operations.

Mr. Colton: I object to the answer, as, according to the witness' own statement, based on records not produced, and, in the main, on other hearsay evidence.

By Mr. Reed:

Q. When the United States Steel Corporation got control of the Tennessee Coal, Iron & Railroad Company, Mr.

Bowron, did it acquire a monopoly of the ores of the Birmingham district?

Mr. Colton: Just a moment. I object to the witness expressing any opinion on this subject, as he has already testified that he was not at that time engaged in the iron and steel business; further, to the question as calling for a conclusion upon a general state of facts not disclosed to the court, and as calling for a conclusion upon a mixed state of law and facts, as to which the witness is not competent to express an opinion.

By Mr. Reed:

Q. Answer, please, Mr. Bowron.

A. The developments which have subsequently ensued, I think, have conclusively demonstrated, as a matter of fact that it did not; for if it had done so, I could not have bought what I have bought.

Q. Now, a word as to your products and their sale: where is the market for your steel, which your company is making, Mr. Bowron?

A. Substantially south of Mason and Dixon's line. We sell our wire products and bars from Virginia to the Carolinas on the east, and to Kansas and Oklahoma on the west, and throughout all of the states bordering on the South Atlantic and the Gulf.

Q. Do you sell billets?

A. We sell billets when we can. The market is a very limited one, and we have great difficulty in making such sales.

Q. Are you in competition with any subsidiary companies of the United States Steel Corporation in your sale of bars and wire products?

A. We compete with the American Steel & Wire Company in wire products, and with the Tennessee Coal, Iron & Railroad Company in bars and in billets.

Q. Is that competition active or otherwise?

A. It is decidedly active.

Q. Has that been so throughout the whole period of your connection with the Southern Iron & Steel Company and the Gulf States Company?

A. It has, decidedly. We have to scrap for everything we get.

Q. Have you now or have you had a part in any combination to fix the prices of your products—I mean a combination with your competitors?

A. Absolutely none.

Q. Has the Tennessee Company or the American Steel & Wire Company, so far as you know, been a party to any such combination during that period?

A. I have never known of any.

Q. Have you other competitors in these products besides these Steel Corporation subsidiaries that you named?

A. Many.

Q. Taking wire products, Mr. Bowron, tell us the names of some of the most active of your competitors.

A. The Jones & Laughlin Steel Company, the Pittsburgh Steel Company, the Cambria Steel Company, the Kokomo—I do not know the exact title of that firm—the Youngstown Sheet & Tube Company, the Atlanta Steel Company; and there are three different concerns in Ironton, Ohio, that are pestiferous in their cutting of prices.

Q. In the west do you meet the Colorado Fuel & Iron Company?

A. No; we do not go quite far enough west to meet them; but we do meet their competition in northern Texas.

Q. How do you find the Steel Corporation—and by "Steel Corporation" I mean to include all its subsidiaries—as a competitor? Do they resort to underhand methods to fight you?

A. No; certainly not.

Q. Do you find their competition fair or unfair?

A. I think it is strictly fair. We always know where they are in the matter of prices. They do not say that their price is so and so, and then whip the devil around the stump and make another price.

Q. Do you find that their sales policy is conservative or otherwise?

A. I regard it as eminently conservative, and the principal barrier against chaos.

Q. In times of prosperity, when the mills are pretty well filled up with business, what is the disposition of the Steel Corporation as to advancing its prices?

MR. COLTON: Just a moment. I object to this question generally, the witness having, according to his own testimony, since the Steel Corporation was formed, only been connected with any certain steel company for a very few years.

THE WITNESS: My knowledge of the attitude of the Steel Corporation and its subsidiaries has been gained during the past years not only through my connection with the steel trade, but through others; for during the period that I was not connected with the steel trade I was the vice-president of an iron foundry using from 150 to 200 tons of iron per day, and having to buy iron in the open market. From my knowledge, such as it is, I have regarded the Steel Corporation as standing somewhat in its own light, in refusing to follow the market up and advancing prices, when, in my judgment, the market would have justified such advances.

By MR. REED:

Q. In other words, they have refused to follow the market up, as you term it, to the extent of putting up their prices to the point at which the demand for their products would seem to warrant the advance? Is that correct?

A. I think if I had been a stockholder in the Steel Corporation I would have felt several times that it was failing to earn the money for me that it ought to have done by advancing its prices.

Q. Now, take times of depression: has its policy there been to get all the business that there was, or to drop its prices to the very bottom, or what has its policy been?

A. I think it has dropped its prices in times of depression low enough to get business, but I have felt no ground of complaint because I could not manufacture cheaply enough to follow it down. That was my handicap.

Q. How do you find their attitude toward you in regard to the accidents that occur from time to time in the manu-

facture of steel? Do they seem to rejoice at misfortunes in your plant or do they try to help you out?

MR. COLTON: Objected to as irrelevant. It is simply cumbering the record with stuff——

MR. REED: With stuff?

MR. COLTON: With matter that is entirely immaterial.

MR. REED: We will see.

By MR. REED:

Q. Now, Mr. Bowron, will you answer?

THE WITNESS: When our steel works might have been shut down altogether three or four months ago, by an accident to the charging locomotive at our coke ovens, which would have removed temporarily our competition, I went within an hour to the Tennessee Coal, Iron & Railroad Company, and its president instructed that every facility they could offer us should be offered to overcome our trouble, and they immediately lent us a small locomotive and several charging larries for our coke ovens, enabling us to continue our operations.

Q. Now, Mr. Bowron, if you are able to cumber the record, as Mr. Colton calls it, with any more of that kind of stuff, as he calls it——

MR. COLTON: I did not call it stuff; I called it matter.

By MR. REED:

Q. (Continuing) ——any more of that kind of matter, I wish you would do so.

MR. COLTON: I object on the same ground.

THE WITNESS: There have been one or two other occasions where we have been short of some material, particularly when the storm at sea some months ago caused the putting back into Liverpool of a steamer carrying our monthly supply of ferro manganese, without which we could not have continued manufacturing our steel, and would have been temporarily removed from competition. At that time the Tennessee Coal, Iron & Railroad Company unhesitatingly furnished us with a supply; and at another time with a supply of magnesite

for repairing our furnaces when the ship had failed to arrive at New Orleans in proper time.

By Mr. Reed:

Q. What banks have you mainly used in financing of the new Gulf States Steel Company?

A. You mean in the formation, the handling of the reorganization?

Q. Yes.

A. The Guarantee Trust Company, the Bankers' Trust Company, the Union Trust Company, the United States Mortgage & Trust Company and also the financial houses of Post & Flagg, and the Royal Bank of Canada—all of New York.

Q. The Guarantee Trust Company; that is the one of which Mr. George F. Baker and Mr. D. G. Reid are directors, is it?

A. I so understand.

Q. And the Bankers' Trust Company, of which you spoke, is the one of which Mr. E. C. Converse, George W. Perkins and D. G. Reid are directors?

A. Their names appear in the published list.

Q. So far as you could see, has any one of these Steel Corporation directors in any way attempted to obstruct your reorganization?

A. I have never known of anything of the sort, and I feel sure I would have felt it if it had been so.

Q. You lived in Birmingham in 1907, did you?

A. Yes.

Q. And you were then interested in an iron foundry, you say?

A. I was.

Q. Do you regard, or have you at any time since the panic of 1907 regarded the purchase of the Tennessee Coal, Iron & Railroad Company by the Steel Corporation as a step toward monopoly?

Mr. Colton: Just a moment. I object to the question as calling for a conclusion upon a state of facts not disclosed to the court, and also calling for a conclusion upon matters involving a question of law and fact, and to the witness as incompetent.

By MR. REED:

Q. (Continuing) As monopolistic in character?

MR. COLTON: The same objection.

THE WITNESS: On account of my long connection with the trade, and being associated with several other industrial enterprises in this district, banking, coal mining and iron foundries, and being at that time vice-president of the chamber of commerce here, my opinion was constantly sought on the subject, and I said then, as I say now, that it was emphatically for the welfare of the district and not in any way to its prejudice.

By MR. REED:

Q. How was it in its relation to the welfare of the southern consumers generally?

MR. COLTON: I object on the ground that the witness is not shown to have knowledge as to the southern consumers generally.

THE WITNESS: The acquisition of the well-located and valuable mineral properties of the Tennessee Coal, Iron & Railroad Company by the Steel Corporation, for the first time since the beginning of business in this southern district, placed those resources in contact with adequate capital for their development upon a broad commercial scale which would permit the introduction of scientific improvements and developments which could be imitated by other producers, thus in turn cheapening products, avoiding waste and helping the district, the consumers, and everybody else.

By MR. REED:

Q. And did you then or do you now feel that that purchase was monopolistic in character?

MR. COLTON: Just a moment. I object on the ground that the witness has answered that question as to his own understanding, and this question is simply repeating the question previously asked the witness, to which he has made full answer, and to the question as, therefore, leading.

THE WITNESS: I did not then, and do not now, so regard it.

MR. REED: You may cross examine.

CROSS EXAMINATION

By Mr. Colton:

Q. As I understood your opinion, in part, the extremely valuable ore lands of the Tennessee Coal, Iron & Railroad Company needed a great deal of money for their development; is that correct?

A. That is true.

Q. In addition to extremely valuable ore lands they had extremely valuable coal lands, did they not?

A. Yes.

Q. It was a company of great prospects with inadequate money to develop it; is that correct?

A. I always felt so, but had for many years great difficulty in making anybody else believe it.

Q. As regards the amount of money that was owned by that syndicate, ready to develop the Tennessee Coal, Iron & Railroad Company; do you know anything of the wealth of Oliver H. Payne, who was one of the Standard Oil defendants, and a large holder in that syndicate?

Mr. Reed: Being a defendant does not make a man wealthy; it has the other tendency, has it not?

By Mr. Colton:

Q. Now, answer the question, please.

A. I do not. I do not know what syndicate you refer to, as there has been none mentioned thus far.

Q. You do not know that the Tennessee Coal, Iron & Railroad Company's stock was owned by a syndicate of individuals?

A. I have heard it, as a matter of hearsay information. I can not charge myself with the information.

Q. You know nothing as to the wealth of Mr. Payne?

A. I do not.

Q. Or the extent to which he owns stock in the Standard Oil Company and many other companies?

A. Mr. Payne used to be one of our directors before I left the Tennessee Coal, Iron & Railroad Company, but I never had any occasion to know anything of his means.

Q. You knew nothing about the means of John W. Gates?

A. Nothing whatever.

Q. You did not know that he was a man of very considerable wealth, and a member of the syndicate?

A. I may say right here that I did not know anything about that syndicate, who were the members of it, and I was never brought in contact with it in any way, then or subsequently.

Q. You did not know at that time as to how much money had been contributed already toward the development of the property, and how much more was under way?

A. I did not know at that time.

Q. And you did not know as to Mr. Hanna's being connected with the syndicate, and as to his being a man of wealth?

A. As I have already stated, I had nothing to do with the syndicate, and never knew who was in it or anything about it.

Q. You do not mean to say that the United States Steel Corporation were the only group of individuals in the United States that had sufficient money to develop that property, do you?

A. I mean to say that that was the only group of people that ever came down here and did it.

Q. You do not know how long this syndicate had had ownership of that property, do you?

A. I do not know when the syndicate was formed or when it was dissolved, or who was in it, or whether there ever was one, except by hearsay and newspaper information.

Q. So of course you know nothing as to their plans or the steps taken by them, the financial steps taken by them, looking to the development of that company?

A. Nothing except hearsay, through the newspaper press.

Q. From what engineering school did you graduate?

A. That of hard experience.

Q. Whatever knowledge you have of the engineering business comes from practical experience and not from being a graduate of any school, as I understand?

A. I had the misfortune to be born a little too early, before the universities in England were open to members of any

other than the Episcopal Church, hence I had no college education. But I have been at hard work earning my living for more than fifty-five years, both above ground and under ground, and I know more about practical and commercial results to be obtained from mining than some people who are graduates.

Q. What percentage of your time between May, 1901, and August, 1910, did you spend underground?

A. A very limited part of it.

Q. Could you give me any estimate of the amount of time you were underground during that period?

A. I hardly could; perhaps on eight or ten different days.

Q. Eight or ten different days during the entire period?

A. Yes.

Q. Will you give me, as nearly as you can recollect, the different places that you were underground and in what connection you were underground?

A. As an officer of a local coal mining company I was in all of its different coal mines, five or six in number.

Q. Just a moment. Were you, during that period, underground in connection with any ore mines?

A. I do not remember that I was, during those nine years. It was not necessary; I was already familiar with them.

Q. In 1901 do you now recall to what depth they were mining ore in this district?

A. No; I could not tax my memory with it now. We were down below sea level, however.

Q. You do not recall the exact depth?

A. No, sir; I do not.

Q. You mean the Tennessee Company was?

A. We had so many mines that it was impossible for me to carry those details in mind.

Q. Though you had some familiarity with it, that was not your business; you were treasurer of the company and had a great many duties as an executive officer connected with the company to carry out, and that was carried out by others—the mining operations?

A. I was the first vice-president of the company, and the ranking officer living in the State of Alabama, to whom all

reports came, and I was constantly in daily and hourly touch with those who were immediately directing the operations, seeing all of the reports of progress rendered by the different superintendents, and keeping thoroughly in touch with the conduct of the business.

Q. Can you give me the iron output, approximately, of the Tennessee Company—I mean the iron ore output, approximately—during the year 1900?

A. I could only give it by figuring back, knowing what the output of iron was; and I imagine you already have the information on your records.

Q. You say by figuring out?

A. By figuring back.

Q. If you knew the total amount of iron, you could give it?

A. Yes.

Q. The total amount of iron ore taken out, you mean?

A. At that time, when I left the company in 1901, we had seventeen furnaces, with a capacity of 100,000 tons a month, say 1,200,000 tons per annum.

Q. That is, of pig iron?

A. Yes. We had not a full, adequate market for it, but that was our capacity; and it would have taken about two and three-quarter tons of ore to the ton of iron, which would have made about 3,300,000 tons of ore per annum, if those furnaces had all been running to capacity.

Q. About what capacity were you running to, at that time?

A. That is impossible for me to say, because the furnaces would be going in and out, so many of them—seventeen of them—in accordance with the condition of their linings, and repairs necessary upon them, and so on.

Q. You could not form any general estimate of the percentage they were running for the year 1899 and 1900, then?

A. No. Years ago I used to try to carry all such statistical matter in my head, but of more recent years I strive to forget statistics, and simply know where I can put my finger on them when I want them.

Q. You are trusting to records, now, for such information?

A. Surely.

Q. What engineering work did you do during the years 1899 and 1900, inclusive? What work as an engineer did you do during 1899-1900?

A. As the resident head of the company, I supervised all of the engineering work that was being done by other officers of the company, either below ground or above it.

Q. What percentage of your time did you spend underground during the year 1899-1900?

A. I don't know.

Q. Your time was largely taken up with general supervision; your work was more important. Did you have an engineer for your company?

A. Certainly; and a very good one too.

Q. Have you at any time been engineer for an ore company? If so, when?

A. I have never been employed as an engineer, but always as a higher executive officer, and I have had occasion to pass upon their work, and am doing so up to the present time.

Q. As a higher executive officer?

A. Yes; and criticizing their work, as I did only two days ago, going to the bottom of an ore slope and passing upon the work done by my engineer.

Q. You know, do you not, that during the years 1897 to 1898 the output of steel was greater in this country than it had been during any previous years in the history of the country?

A. That is usually so in each year successively.

Q. Suppose we take the year 1908: Was the output for 1908 greater than it was in 1907?

A. I decline to be treated as an encyclopedia of statistics.

Q. You say it was usually so?

A. I say it is usually so.

Q. Let us see. In 1911 was it greater than it was in 1910?

A. I do not know. I do not carry the tables of output in my head.

Q. In 1904 was it as great as it was in 1902?

A. I will take pleasure in bringing you the printed tables of output if you wish for them.

Q. You do not know, do you?

A. I do not carry that in my head. Why should I, when I have the information on my desk?

Q. Well, we have it too.

A. Very well; then do not ask me.

Q. You are volunteering statements of what is usual.

A. Perhaps I misunderstood your question. I understood your question to be: Was the production greater in the two years which you mentioned than in previous years, than it had been in any previous years in this country, and upon the principle that the consumption of iron and steel per capitum is constantly growing, I simply answered intending it to be a general answer, that the production and consumption were always growing.

Q. Now, in 1896 was it greater than it was in 1890?

A. I do not carry the figures in my head.

Q. In 1893 was it as great as it was in 1890?

A. 1893 was a panic year, and 1896 was a semi-panic year on account of the financial troubles.

Q. In 1909 was it as great as it was in 1907?

A. If you have the information in the record I do not see why you ask me. I have answered a half a dozen times that I do not carry the tables in my head.

Q. Now, during the years 1890 to 1912 inclusive can you state, as a matter of fact, that there has been the slightest uniformity from year to year of increase in the output of steel?

A. In a general way there has. The consumption of iron per capitum for the past thirty or forty years has come very near to doubling itself each successive decade.

Q. Yes; while as a general proposition there is a general increase with the growth of the country, is it not a fact that there are decided fluctuations as, for example, the year 1893, the production may have been decidedly less than 1890; and in the year 1896, so far as you know, it may have been decidedly less than it was in 1895; and in the year 1904 it may have been decidedly less than it was in 1902; and in the year 1908 it may have been, for aught you know, decidedly less than it

was in 1906 and 1907; and in the year 1911 it may have been decidedly less than it was in the year 1910, for aught you know; is not that correct?

A. Such mutations are not at all inconsistent with the general law of development and increase.

Q. Now, will you name any year other than the year 1898, in which the output was greater for that year than for any previous year, if you know?

A. I do not carry the tables in my head, and I will not make any guess answers.

Q. Well, is it a fact that taking any given year it is generally greater than any previous year?

A. It is.

Q. Take the year 1911; was it greater than any previous year?

A. I do not carry the output for 1911 in my head.

Q. Take 1904; was it greater than for any previous year?

A. The same answer.

Q. Take 1908; was it greater than any previous year?

A. The same answer.

Q. And the year 1893; was it greater than any previous year?

A. The same answer.

Q. Take 1896; was it greater than any previous year?

A. The same answer.

Q. What kind of pig iron were you manufacturing in this district in 1898?

A. In 1898 we were making two classes, foundry iron and basic.

Q. You spoke of what you sold your pig iron for in 1898, export, or at least on one or two export shipments; can you give the price that you sold your pig iron for in the domestic market?

A. I stated only one price for domestic sale, which was 5,000 tons of 2 Foundry, at $6.25.

Q. That was 1896, was it not?

A. Yes.

Q. In 1898; can you give the different prices that you charged for pig iron during 1898?

A. No, I do not carry that in my head.

Q. You do not know whether the price had very materially advanced or not, do you?

A. It could not have advanced very materially, because we were compelled to ship nearly 100,000 tons of iron in 1897 abroad for lack of ability to market it in this country, and we were certainly selling through 1897 as cheaply as was necessary to get all the business in sight.

Q. Do you know whether your output, taking your own company, whether your output was as great in 1897 as it was in 1896?

A. I don't remember the figures.

Q. Do you know whether it was greater in 1896 than it was in 1897?

A. I don't remember.

Q. You remember neither the price nor the output for those years, do you?

A. No, sir.

Q. And you of course do not remember either the output or the prices of the country as a whole with respect to steel during those years, do you?

A. I do not.

Q. What was the total amount of tonnage that you exported from the Tennessee Coal, Iron & Railroad Company during the period 1896 to 1900, inclusive, if you know?

A. From 1896 to 1900?

Q. Yes, inclusive; your annual export of pig iron?

A. In 1897 my recollection is that we exported about 100,000 tons.

Q. Is that the only year you recollect anything about it?

A. In 1898 the market began to improve and our export shipments dropped off, and in 1899 we began to turn our iron into the steel works, and in 1900 into the steel works.

Q. Now, did you, as an officer of the company, have anything to do with the question whether it should pay dividends during the period from 1899 to 1901, of the Tennessee Coal, Iron & Railroad Company?

A. I had this much to do with it, that I protested in writing to the Chairman of the Executive Committee against the

payment of any other dividend, the first one having been paid while I was in Europe and without my knowledge.

Q. Where is that protest?

A. You will have to ask the gentleman who received it. Well, you can not ask him, because he is dead. That was Mr. James T. Woodward, the president of the Hanover National Bank of New York, who subsequently died.

Q. Were you a director of the Tennessee Company at any time?

A. I was, I think; I feel sure of it.

Q. Did you make that protest to the public, so that the public knew about the condition of the company as to paying dividends, or did you keep that to yourself and your fellow officers?

A. Well, I think it was rather kept to ourselves for a pretty good reason, that——

Q. (Interposing) Did the other officers——

MR. REED: I do not think Mr. Bowron had finished; had you, Mr. Bowron?

THE WITNESS: No. I do not know how far Mr. Colton would like me to expand my answer.

By MR. COLTON:

Q. You answered my question—unless you want to make some explanation.

A. I am simply answering questions as well as I can, when you do not call on me for statistics.

Q. Now, who were the different men in the Tennessee Company that had to do with the paying of dividends by that company during that period? Name them, name the officers of the company, and the directors.

A. The officers of the company had nothing at all to do with it. The officers were Nat Baxter, Jr., president, of Nashville; myself, first vice-president; A. M. Shook, second vice-president; G. B. McCormick, general manager.

Q. Were any of those officers directors of the company?

A. Mr. Baxter and Mr. Shook were, as well as myself.

Q. Do you now recall how those gentlemen voted on the question of paying dividends?

A. They did not vote, because the meetings were not held down here in the South, where we were attending to the business; the meetings were held in New York.

Q. And none of the officers up there, or directors in New York——

MR. REED: You cut him off in the middle of his answer.

THE WITNESS: (Continuing) Whatever action was taken was taken by the executive committee of the directors of the company at its meeting held in New York City.

By MR. COLTON:

Q. Who kept the books of the company? Who was the responsible officer for keeping the books of the company?

A. The general books of account?

Q. Yes, the general books of account; that is, those that would show in regard to the question as to whether dividends should be paid or not. Who was the responsible officer, the head officer, who had charge of that class of work?

A. In a general way, I think I was, more than anybody else.

Q. And the books of the company showed a dividend earned, did they not?

A. According to the method in which they were kept, under the instructions of my president, they did show on the face, as a matter of book value, that the money had been earned.

Q. And those were the books upon which the directors of the company acted when declaring the dividend, were they not?

A. No, the directors of the company in New York did not know whether there were any books; they never saw them; they took what you would call the hearsay evidence of my say-so, of the statements I had prepared of what earnings we had made and what money we had.

Q. And they took your word for it?

A. Until it came to the payment of dividends, and then they ignored my protest.

Q. But you made reports from your books to them, didn't you?

A. I did.

Q. And you showed what your books showed?

A. I requested authority again and again, and again and again to write off from the alleged profit and loss balance the sums that were necessary to apply in depreciation of worn out plant and exhausted mines, and they never would allow me to write them off, for years.

Q. And your superiors disagreed with you as to the method of writing off depreciation, did they not?

A. They apparently wanted to hold a large undistributed profit and loss balance on the books, which I knew could not be divided, because the money was not physically in existence. We had not got it to pay the dividends with.

Q. And yet you continued to keep the books so as to show a dividend earned, under the system; is that correct?

A. I continued to keep the books, under protest, showing accurately, as well as was possible, what we were earning and what we had got.

Q. And under the system it showed a dividend earned?

A. But not available, because the books showed that we had not got the cash on hand out of which dividends could be paid.

Q. You were, during that period, paying for various improvements?

A. We were, and we needed the money to make them.

Q. And there is a question always arising in paying for improvements, as to how far improvements shall be paid for out of cash on hand; is that not a fact, and how far they shall count as new capital, the same as if new capital had been put into the business?

A. That was not the case with the Tennessee Coal, Iron & Railroad Company.

Q. I ask that question; I would like, first, an answer to the question, and then you can make any explanation you like. Read the question.

(The question was repeated by the stenographer.)

THE WITNESS: Improvements must necessarily, in every case, be paid out of cash on hand, for otherwise they could

not be paid for at all; but as to how that cash should be provided, whether from the current earnings or from the sale of new securities, is a moot point to come up in every separate corporation.

By Mr. Colton:

Q. And is a matter of judgment upon which different parties might differ at different times; is not that true?

A. That is not true in this case.

Q. I am asking you generally.

Mr. Reed: He has answered generally that it is not true.

The Witness: It is not true in this case; it was not a matter of judgment at all; it was a matter of stern facts, because I had to go out and borrow the money to pay the dividend which they declared over my protest.

By Mr. Colton:

Q. But you were making improvements all this time, were you not?

A. And needed the money for that particular purpose, and so pointed out in my letter to the chairman of the executive committee.

Q. You were earning money during that period, were you not?

A. We were; out of our coal mines, chiefly.

Q. But you were earning money, wherever you were earning it from?

A. Yes, and needing it.

Q. You have not answered my question as to who were the directors in that company yet. Maybe I interrupted you.

A. I would have to tax my memory, and I hate to do it when I know that you have already got it in the record.

Q. I would like to get your memory, so far as you have it; I do not know whether you know more about what is in the record than I do.

A. No; I was only suggesting.

Mr. Reed: I do not think it is necessary to be so very uncomplimentary to Mr. Bowron. He may not have meant the record in this law suit. There are other records.

By Mr. Colton:

Q. I thought you were referring to the record in this law suit; were you not?

A. I had supposed that probably the copies of my printed annual reports giving those names had already been filed in this proceeding.

Q. I do not know whether they have or not; all I want you to do is to name the directors so far as you remember them.

A. It is very difficult for me, there were so many and they changed so much, but I will try. Let me see. There was James T. Woodward, Cord Meyer, Albert B. Boardman——

Q. A reputable lawyer in New York, is he not?

A. He is a very splendid fellow. I have the warmest regard for him. And B. F. Tracy, W. S. Gurnee, G. B. Schley.

Mr. Reed: A reputable broker in New York, is he not?

The Witness: Of the firm of Moore & Schley.

By Mr. Colton:

Q. O. H. Payne?

A. I cannot remember whether he was on the board at that time or not; I do not think he was on for more than about a year; he might have been, but I would not be sure of it. That would make seven; and Baxter, Shook and myself, living down in the South, would make ten; John J. McComb, of Dobbs Ferry, would be 11. That is about all I can remember now.

Q. Can you name any of those men that were not reputable, honest men? If so, state which ones?

A. They were tip-top men of first-class character, and if they had known as much about the company's finances as I did they would never have paid that dividend.

Q. That is your opinion as to that, as to your relative judgments?

A. You asked me for my opinion as to their character and I gave it to you.

Mr. Colton: I object to the statement as volunteered and not in answer to the question.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

JAMES BOWRON,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION (Continued)

By Mr. Colton:

Q. Were you present when Mr. Smith suggested that the Tennessee Coal, Iron & Railroad Company should go into the steel business?

A. I think I was present during a part of the interview, which lasted two or three hours.

Q. Then you have no personal knowledge of what was said?

A. The balance of it was discussed with me immediately thereupon by Mr. Baxter, and the conversation between us continued thereafter in Mr. Smith's presence.

Q. The general effect was that it was of great advantage to go into the steel business?

A. That it was absolutely essential, in Mr. Smith's opinion; that this district was broken unless it could produce steel.

Q. Do you know as to the extent to which the district continued to produce pig iron and to sell the same, and to increase its sales thereafter?

A. I know that one-half the blast furnaces in Alabama have failed in business in their efforts to produce pig iron and sell it and sustain themselves.

Q. One-half the furnaces in Alabama? Can you give the location of those furnaces that you know of that have failed?

A. Yes; I think I can tell you probably all of them. One at Bethel.

Q. How far is that from here? Give the distance from Birmingham.

A. 109 miles. One at Gadsden, and later on the same plant, with another furnace built in the meantime, failed again.

Q. You count that as two?

A. That is two separate companies failing, although at the same point. One at Talladega.

Q. How far is that from here? Just give the distance from Birmingham.

A. Probably 60 miles. Two at Anniston, 40 miles from here. Those furnaces have failed either twice or three times, under different control. Three at Sheffield, say 100 miles from Birmingham. Those furnaces have failed twice, I think; once that I know of, and I think they failed a second time, when they went out of business.

Another at Florence, about 100 miles away. Another right here in Birmingham.

Q. What was that?

A. The Williamson furnace. Two at Ironton, about 60 miles away. Another one about 30 miles from Birmingham—I forget the name of the place—down on the Alabama Great Southern Railway, near Woodstock.

Another one at Brierfield, about 60 miles. Another one—I would not say that it failed, because it paid its creditors, but it was not prosperous, so that it quit business and was pulled down, in Birmingham.

Q. What was that?

A. The Mary Pratt, in Birmingham. I think another one failed in the vicinity of Rome. Perhaps I should not count that, as that is over the Alabama line, into Georgia; just over the line.

Then at Trussville; that furnace failed twice, under different ownerships.

Q. What were they?

A. The first ownership was R. D. Smith & Company. The second ownership was the Southern Steel Company.

Q. How far is that from here?

A. Twelve miles. The Alabama City furnace, 59 miles away. There are others that have been controlled from Birmingham that have failed, but outside of the limits of the State, just across the borders, such as Chattanooga and Rising Fawn, drawing their ore supply from Alabama.

Q. How far away? Located at what distance from here?

A. Which?

Q. Those you have just mentioned in Tennessee.

A. The Chattanooga furnace—there were two furnaces there, one of which has worn itself out, and the owners do not think it worth while to rebuild it, so that it has become obsolete and useless, and the other one of which has failed, to my knowledge, three times, under different ownerships, drawing its supplies of ore largely from Alabama.

The Rising Fawn furnace, which is across the Alabama state line, about 115 miles from Birmingham, has failed at least twice, in my knowledge, under different ownerships. I do not remember the circumstances incident to the closing down of the Vanderbilt furnace before that was bought again and rehabilitated; I do not remember whether they failed or not. At all events, the enterprise was not sufficiently lucrative for them to remain in business.

Q. Where was that?

A. In North Birmingham, or in northeast Birmingham.

Q. Is that all you recall?

A. At the moment it is, and I think it is plenty.

Q. How far is that last furnace you named from the center of the town?

A. From the center of the town?

Q. Yes.

A. About five miles.

Q. Is it in operation now?

A. Yes.

Q. How long has it been built?

A. Oh, I imagine about twenty years.

Q. And it was rebuilt?

A. It has been rebuilt within the past seven or eight years.

Q. When did it fail?

A. I did not say that it failed; I said I did not remember definitely the circumstances under which it went out of business.

Q. Taking the Williamson furnace: how long was that furnace in business before its failure took place?

A. It was in business a good many years, probably fifteen to twenty years.

Q. The furnace had been used pretty well during those years, had it not?

A. Yes.

Q. What part of Birmingham is that located in?

A. Right in the very center.

Q. Is there any furnace being operated near that furnace now, or where that furnace was?

A. The Alice furnace, within three or four city blocks of it.

Q. Owned by the same parties?

A. Owned by the Tennessee Coal, Iron & Railroad Company.

Q. When was that property acquired by the Tennessee Coal, Iron & Railroad Company?

A. On the 1st of October, 1886.

Q. When did the Mary Pratt furnace fail?

A. For the same reason that a good many others did.

Q. I didn't say "why"; I said "when."

A. Oh, I think twenty years ago.

Q. Where was that located?

A. About Woodlawn; between Woodlawn and the next adjacent suburb going out on the Southern Railway, about four miles from here.

Q. How long was that operated before it failed?

A. I should imagine, from memory, approximately ten years.

Q. What was its output?

A. I don't know.

Q. What occasion did you have to know of its failure?

A. The fact that I saw it go out of business, and pulled down and dismantled.

Q. It was pulled down and dismantled, and you assume that it failed, from that?

A. It is a pretty good assumption that when a man puts $500,000 into a blast furnace, and pulls it to pieces, it is because he can not make any money out of it.

Q. It depends a little on how long it has been operated, does it not?

A. No, not if it is properly operated, by a concern having adequate capital, because then it would be kept in good order and repair.

Q. Don't they ever put a new furnace into the same place where the preceding one was?

A. No, it is not worth while to move them; you can not get ten per cent. salvage out of them.

Q. I asked if they do not put a new furnace in there, put it in the place where the old furnace was.

A. That is the advantage of the Steel Corporation doing that; they have put in new furnaces.

Q. They have put in a good many new furnaces?

A. They have rebuilt a good many of the old ones.

Q. Now, practically all these furnaces you have named were located at a greater distance from Birmingham than thirty miles, were they not?

A. A majority of them, yes.

Q. Now, you spoke of a great slump in the prices of steel products in 1900. Will you give the different products to which that slump applied, as near as you can recollect?

A. I think it applied to all of them; it was precipitated by a cut of at least six dollars a ton in the price of wire nails.

Q. Wasn't it twenty dollars a ton?

A. I have forgotten; I was traveling. When that took place I was in Sweden, undertaking to sell steel rails for the Tennessee Company, so that I was not in close touch with it.

Q. Now, don't you know, as a matter of fact, that although there was a great slump in the prices before the organization of the United States Steel Corporation, at or about the time of the organization of the Steel Corporation, there had been a great rise in the prices of steel products generally?

A. I do not remember what year the Steel Corporation was formed.

Q. It was formed in April, 1901; we will take that as the time. Were you familiar with the prices in April, 1901?

A. In a general way I was; I was very familiar with them

at that time because I was in active service with the company until the 1st of May, 1901.

Q. But you do not now recall the extent to which the prices of steel products rose before May, the time that you left the Tennessee Company?

A. No; each succeeding year the existing conditions are so much more interesting that I allow the present to crowd out memories of the past, so far as statistics are concerned.

Q. So you would not undertake to testify in regard to prices during 1900 and 1901, one way or the other, would you?

A. I would not without refreshing my memory by access to the tables of prices.

Q. What tables do you mean?

A. We have such tables available for instantaneous reference in my office and all other iron and steel works offices.

Q. What tables are those?

A. Published by such publications as the Iron Age, the Iron Trade Review, the Metal Market, and publications of that sort.

Q. And you would refresh your memory as to prices from such tables?

A. In case of need, yes. I have such charts hanging on the wall in my office, so that I can turn instantly to them, without burdening my mind with the figures.

Q. Up to the time you left the Tennessee Company, it manufactured and sold what steel products?

A. It was not manufacturing any steel products, other than billets, bars and plates, and a few angles.

Q. You sold some rails, however, in anticipation of the mill that they were putting up?

A. I did not sell any. I was laying the ground for the future sale of them.

Q. What do you mean by that?

A. I mean that I was working up trade all over Europe for the disposal of our products, and taking orders for some products in advance of our making them, and I was talking to the persons in authority in regard to the quality of rails that we hoped to make.

Q. What was the annual capacity of the billet mill of the Tennessee Company at the time you left?

A. When I left the company we were not able to get more than 300 tons a day, which would be 90,000 tons a year.

Q. Had the mill been worked up to its full capacity at that time?

A. No, it had not. We were sorely dificient in heating capacity. We had no soaking pits.

Q. Between May, 1901, and August 6, 1910, you were not engaged in the steel business, were you?

A. No.

Q. You were connected with a foundry company?

A. I was the vice-president of a large foundry, and the chairman of one of our largest banks, and in other ways actively associated with the business affairs of the district.

Q. This foundry company: did it purchase pig iron?

A. Yes.

Q. Were you the purchaser of the pig iron? Were you the purchasing agent?

A. I was not.

Q. Did you have anything especially to do with the purchasing, one way or the other?

A. I was the vice-president of it, and as such, visiting the plants at least twice a week, my advice was sought and acted upon in the matters of the purchase of pig iron and I said when it should be bought, and advised the president, who deferred to my judgment in that, as one having special knowledge of it.

Q. What tonnage of pig iron did that company use annually?

A. We used not less than 45,000 tons a year.

Q. How many years were you connected with that company?

A. From the day it started until the day it ended——

Q. I do not know either of those dates. What were they?

A. I had not quite finished. From 1899 to 1911, inclusive.

Q. What happened to the Southern Steel Company August 6, 1910?

A. On August 1, 1910——

Q. August 6th, I have it here. I may be wrong.

A. August 1, 1910, I was appointed receiver in bankruptcy.

Q. When you were appointed receiver on August 1, 1910, what blast furnaces were actually in operation, of that company?

A. August 1, 1910, one at Alabama City.

Q. One furnace at Alabama City? What was the capacity of that furnace?

A. About 90,000 tons.

Q. What was its daily capacity?

A. 250 tons.

Q. Where did you use the pig iron made by that furnace?

A. In our open hearth steel works.

Q. What was the maximum output of that furnace at any time during the years 1910 to date?

A. 287 tons.

Q. 287 tons is the maximum which you got for any one day?

A. Yes.

Q. Now, the pig iron capacity: there were ten furnaces?

A. Six.

Q. 50-ton furnaces?

A. Rated 50 tons.

Q. Rated 50 tons? What was the maximum daily output of the open hearth plant?

A. The output is not strictly contemporaneous with the day, the heats coming off——

Q. Give it annually, then.

A. We have got as much as 340 tons in one day from our three furnaces, which is the greatest number that we have ever had in operation during my tenure of office.

Q. Three furnaces is the greatest number you have had in operation?

A. Yes.

Q. Do you know what your maximum annual output has been for any year in ingots?

A. I can give it to you in a moment, if you will wait until I add it up.

In 1910, 23,058 tons.

In 1911, 65,001 tons.

In 1912, 79,874 tons.

In 1913 I have not yet got the December figures, and I shall have to estimate them.

Q. Suppose you give it for the other eleven months, and then give your estimate for December.

A. 103,085 tons for the eleven months, and I estimate 5,000 tons for December, because we shut down during the month.

Q. About 108,000 tons for the year?

A. Yes.

Q. During the year 1910 evidently the works ran at a very low portion of its capacity?

A. They shut down for want of money, before I entered the service of the Company; and when I assumed office I found the steel works closed.

Q. Although that was a very prosperous year in the steel business generally, was it not, 1910?

A. The spring had been, but conditions changed and tapered off very rapidly.

Q. Don't you know that the year 1910 was the year of largest output, with the possible exception of 1907, up to that time?

A. I know that the prices of iron and steel in the autumn of 1909——

Q. (Interposing) I asked you about output; now you are just volunteering where you speak of prices.

MR. REED: You asked about prosperity first.

MR. COLTON: No; I asked about output.

(The last question was repeated by the stenographer.)

MR. COLTON: My question was addressed to output.

MR. REED: What was the question before that?

(The preceding question was repeated by the stenographer.)

MR. COLTON: That was not the question he was asked.

MR. REED: It is not so reprehensible for a witness to answer a question that you interfered with.

MR. COLTON: I did not interfere with it.

THE WITNESS: As I have previously stated, I do not attempt to carry the figures of output for any of the years in my head.

By MR. COLTON:

Q. And you would not hazard an opinion even on the question as to whether the year 1910 was a year of very large output?

A. No, because it would be hearsay and secondary evidence.

Q. And the same would be true of the year 1911, so far as your knowledge goes?

A. I do not carry in my head the figures of anybody else's output except my own. It is as much as I can do to carry my own figures in my head.

Q. As a matter of fact you do not carry those in your head; you got those from your records—perfectly properly so, but is it not a fact?

A. It is not far removed, seeing it is in my pocket.

Q. You do not carry it in your head; you carry it in your pocket.

A. It is *in corpore vili* in either case.

Q. You refused to be charged with one furnace and repudiated another—I may not be quoting you exactly, but that is my recollection—I suppose you did that because you did not consider them advantageous to your company?

A. I did not, and therefore took steps to dissociate them from the body of the property with which I was charged.

Q. Now I notice that your rod mill capacity was 120,000 per annum. When did it first become 120,000 tons per annum?

A. The physical capacity of the plant became what it is when it was built.

Q. In what year was that; that is, if you know; I do not care for your hearsay knowledge; how far back have you any knowledge about it?

A. It was built, according to the official records of the company, over which I preside, in the autumn of 1909.

Q. Is that wire rods?

A. Wire rods.

Q. Give the wire rod output since you have been connected with the company?

A. You mean per day or per month?

Q. Annual output.

A. I will have to add up all of my annual figures to arrive at that.

Q. I mean your annual output. You will not have to add up your annual figures for that, will you? Approximately will do for my purpose.

A. I will give it to you approximately in just a moment. During the year 1913 we have made about 42,000 tons of rods, which I think is the largest output yet.

Q. In 1912?

A. In 1912 we made about 39,000.

Q. And in 1911?

A. About 39,000.

Q. 1910?

A. About 24,000.

Q. Now, wire nails. I have forgotten now whether you gave the capacity in tons?

A. Yes.

Q. Will you give wire nails for the same year—output?

A. In 1910 about 14,000 tons; in 1911, 25,000 tons; in 1912, 23,000 tons; 1913, 23,000 tons.

Q. And the barbed wire output for the same years?

A. 1910, 5,000 tons; 1911, 11,000 tons, 1912, 11,000 tons; 1913, 10,000 tons.

Q. Does that cover your finished product?

A. And woven wire.

Q. Woven wire fence, output?

A. 1910, 1,000 tons; 1911, 4,000 tons; 1912, 6,500 tons; 1913, 6,500 tons.

Q. You spoke of competition of the Tennessee Company. In what products is the Tennessee Coal, Iron & Railroad Company a competitor of yours?

A. In billets and bars.

Q. And are those the only products in which the company is a competitor of yours?

A. I think those are the only ones, and light rail, mine rails. I think those three things would be the only ones that we make for the open market, in which we would be competitors.

Q. What tonnage do you make of light rails?

A. Very, very little; in 1911, 737 tons, and in 1912, 1,966 tons.

Q. And in 1913?

A. Nothing.

Q. Now, has your company, since you have been connected with it, made all the ingots from which it rolled its finished product?

A. Yes.

Q. You have come out even on that proposition, have you, or have you sold some steel in the form of billets?

A. In the form of billets, yes, but not ingots.

Q. What tonnage have you sold in billets annually?

A. In 1910 we sold 4,978 tons.

In 1911, 9,486 tons;

In 1912, 13,345 tons;

In 1913, 25,018 tons. of bars

Q. I neglected to ask you about your output for the different years.

A. Will you have the actual make or the sales?

Q. If you have the output I would rather have the output.

A. I can give it to you.

In 1910—you can take it approximately, like the others—1600 tons.

In 1911, 9,800 tons.

In 1912, 11,800 tons.

In 1913, 19,300 tons.

Q. What was the capital stock of the Southern Company when you first became connected with it?

A. $10,000,000 common stock and $7,000,000 preferred.

Q. That stock had little or no market when you became connected with the company, did it?

A. I don't think it had—I do not know whether it had any market value or not.

Q. You do not know what the market quotations were on that stock?

A. I do not.

Q. In the reorganization were the stockholders who formerly owned this stock given stock in return for stock that they held in the bankrupt company?

A. Those who had thought fit to come in and to pay an assessment for the privilege of taking a small interest in the new company; but I think the number of them is infinitesimal.

Q. You do not know just how many there were?

A. I have not yet got from the bankers in New York the names, but I learned when I was there a week ago, that the subscriptions from old stockholders were extremely trivial.

Q. The old stockholders did not have much faith in the company?

A. Certainly not. They had not any.

Q. Of this new stock you said the present capital was how much?

A. $15,500,000.

Q. Is that stock listed on the Exchange?

A. Not yet. It is not even issued yet. It is in process of being issued.

Q. It has not any issued capital stock at the present time?

A. It is issued *en bloc* in the hands of the trust company. It is not yet divided into the hands of the ultimate owners.

Q. Are the ultimate owners yet determined?

A. Certainly; the people who have paid their money hold certificates of deposit from the trust company in New York defining their respective interests.

Q. What portion of the stock do you hold, may I ask?

MR. REED: I object to that.

MR. COLTON: I do not know that Mr. Bowron has any objection to giving it.

MR. REED: I object to it, as not cross examination.

MR. COLTON: I think it bears on the question of the company's capital.

MR. REED: Even if Mr. Bowron does not object to it, I object to it. If he has any objection I have no doubt he will say so.

MR. COLTON: That is the point.

By MR. COLTON:

Q. Unless you have personal objection, I should like to have you answer the question, Mr. Bowron.

A. My holding of the stock is very trivial. It may amount to $5,000 or $6,000. I do not know exactly.

Q. How much did you pay a share for that stock?

MR. REED: I object to that as not cross examination.

THE WITNESS: I did not pay anything per share for it, because whatever is coming to me is coming to me in liquidation of the bonds which I previously owned.

By MR. COLTON:

Q. Did other bond holders get stock in liquidation of the bonds, as well as yourself?

A. All of them who saw fit to come into the reorganization scheme.

Q. And a very large portion of this stock is issued in lieu of the bonds which were formerly held by the different bond holders? Is that correct?

A. That is correct.

Q. What portion of this stock is issued in lieu of bonds, if you know?

A. I could not say positively, for the reason that the accounts are still in the hands of the reorganization committee, but in a general way I should say about 85 per cent. of the stock which is issued will be in exchange for bonds of the Southern Iron & Steel Company previously held.

Q. Do you know what was the outstanding bond issue at the time the Southern Company failed?

A. $10,000,000.

Q. How much ore from a depth of 1,902 feet has your company taken out?

A. We have not yet reached it. We are putting down a slope for the purpose of mining it.

Q. You have not mined any ore at that depth as yet?

A. We have not reached it yet.

Q. And that ore is located how far from the outcrop?

A. From the outcrop a distance of about seven miles.

Q. And you are putting down a slope to the ore?

A. We are putting down a slope at an angle of 50 degrees upon the ore, which will have a length of 2,542 feet.

Q. Did you, in your direct examination, give all the instances of offers that you had in respect of ore properties that had been offered to you?

A. Oh dear, no.

Q. Since November, 1907, between Morrow's Gap and Spark's Gap—ore properties located between those two points—give the properties that you have been offered personally, the locations of the properties, the distance from the outcrop, and the drilling that has been done on those properties, and the extent that they have been mined up to the time of the offer.

A. Your question specifies from 1907. I assume you really meant from 1910, because I was not in a position to receive offers of ore until 1910.

Q. All right, then; if you will just specify that you did not receive offers from 1907 to 1910. You did not receive offers of ore properties, as I understand, during that time?

A. I did not receive offers between 1907 and 1910 in connection with the steel trade, although I did receive, in conjunction with my associates, offers of red ore land in the Valley, and we bought several hundreds of acres in the Bessemer Coal, Iron & Land Company, in which I am a stockholder.

Q. Well, if you received offers of ore land I want you to give them just in answer to that question, during that period, no matter in what connection you received them, if they came to you personally.

A. They came to the company of which I was an officer as well as a stockholder.

Q. Did they come to you personally? I mean, was the offer made to you?

A. No, made to my associates, and my advice and decision as to the purchase were sought and acted upon.

Q. All right; give those.

A. They were offers of ore land, I presume a score in number.

Q. Let us have them, all that you can remember.

A. I do not remember any of them; I do not tax my head with the parties' names to whom we paid the money, or from whom they were bought.

Q. Nor what the acreage was?

A. I can tell you the aggregate acreage; we acquired a little over 500 acres from various people, reasonably well bodied up, immediately adjacent on the east to the land of the Republic Iron & Steel Company at Lone Pine, or Valley View mine, at the head of South 15th Street, in this city.

Q. Can you give the locations of the different plots of land?

A. No; I would have to look at a map to find out anything of that sort; I do not carry it in my head.

Q. Could you do it if we gave you a map? (Showing witness Exhibit No. 107.) Where are those 500 acres located on that map? I just want it by sections.

MR. REED: It is right back of the town of Rosedale, is it not?

THE WITNESS: Yes, immediately.

MR. REED: Immediately east of the town of Rosedale?

THE WITNESS: Immediately southeast.

By MR. COLTON:

Q. Are all those 500 acres located in that point?

A. It is practically bodied up together in this immediate vicinity; that is, only speaking as to the offers of ore between 1907 and 1910.

MR. COLTON: That will be sufficient. You can finish the answer to that question after we call the other witness.

By Mr. Colton:

Q. Just one moment. As I understand it, all the offers that you had between 1907 and 1910 are included within that 500 acres?

A. Yes; that is the only offer of ore land. If any other was offered to me, it did not excite my attention sufficient to make a pencil point on my memory.

Q. So that the twenty offers amounted to 500 acres at the point you have given?

A. As between 1907 and 1910, yes.

MERTLAND M. HEDGES

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. You live in Chattanooga, do you?

A. Yes.

Q. How long have you lived there?

A. About 25 years.

Q. During that 25 years what has been your business?

A. Manufacturers of boilers and plumbing cast iron supplies.

Q. Under what name did you do business at first?

A. Up to 1906 in the name of the Casey & Hedges Manufacturing Company; since 1906, the Casey-Hedges Company.

Q. Both of those companies have been doing the same business?

A. Yes.

Q. What was your office in the Casey & Hedges Manufacturing Company?

A. President and treasurer.

Q. What is your office in the Casey-Hedges Company?

A. President and general manager.

Q. Have you been familiar with the buying of steel materials that those two companies have done?

A. More or less.

Q. In purchases of large size, important purchases, are you familiar with the transaction?

A. Yes.

Q. Do you see the quotations that your company gets?

A. Any changes I see.

Q. Are you advised of the quotations that you receive from the various manufacturers?

A. I keep in close touch with them.

Q. Do you make your purchases on a competitive basis?

A. We do.

Q. What kinds of steel materials do you buy?

A. We buy steel plates, steel sheets, boiler tubes, both steel and iron, rivets, I beams and channels, and light angles.

Q. About what tonnage of plates do you buy in a year?

A. Approximately about 3,000 tons.

Q. About what tonnage of sheets do you buy?

A. About 3,000 tons in sheets.

Q. About what tonnage of boiler tubes?

A. About 3,000 tons of boiler tubes.

Q. Do your purchases of I beams and channels amount to a considerable tonnage, or are they relatively small?

A. Relatively small.

Q. Taking up, then, those three materials of which you buy the most—take plates first; do you ask for quotations from different manufacturers before you make a contract or place an order?

A. We are continually getting quotations and always ask for competitive bids.

Q. Now, what manufacturers have quoted to you on plates in recent years?

Mr. Colton: Will you define "recent years" a little more definitely?

By Mr. Reed:

Q. The last two or three years; what manufacturers have quoted you on plates?

A. The Otis Steel Company; the Lukens Iron & Steel Company; Worth Brothers; the Tennessee Coal, Iron & Railroad Company; that is, on plates, your question applies to?

Q. Yes. Now, on plates do you get quotations from the Portsmouth Rolling Mill Company, of Portsmouth, Ohio?

A. Yes.

Q. Do you get quotations from Jones & Laughlin on plates?

A. We do, but not often.

Q. The Crucible Steel Company?

A. We get quotations, but we have not purchased any from them.

Q. I am asking only as to quotations. Do you get quotations from the Cambria Steel Company?

A. Not often.

Q. What percentage of your plates do you buy from the United States Steel Corporation or its subsidiaries? That is, the Tennessee Company or the Illinois Steel Company or the Carnegie Steel Company?

A. About 35 per cent.

Q. And the balance is distributed among the others that you have named?

A. Among the others, yes.

Q. Is the competition among these plate manufacturers keen or otherwise?

MR. COLTON: I object to that on the ground that the witness is not shown to have sufficient knowledge to be competent to answer that question; and on the further ground that it calls for a conclusion upon a state of facts not disclosed to the court.

THE WITNESS: (To Mr. Colton:) I did not hear you.

MR. REED: You do not have to; that objection is for the benefit of the court. Please answer the question just as if the objection had not been made.

THE WITNESS: What is the question?

(The question was repeated by the stenographer.)

THE WITNESS: Usually keen; in dull markets, very keen.

By Mr. Reed:

Q. Now, as to the quotations that are made to you on plates: Do those quotations that are made by the different makers vary, or are they all alike?

A. Well, there are usually one or two that are five cents a hundred to ten cents a hundred below the others.

Q. How long has that condition of variation of quotations been the case?

A. Ever since I have been in the business; for the last twenty or twenty-five years.

Q. Did you know of the plate pool when it existed, Mr. Hedges?

A. We heard about it, but we did not know it.

Q. It did not affect the competition for your business?

A. No; there were always some that were lower than the usual prices. Maybe if there were five quoting there would be one or two that would be lower than the others.

Q. As to sheets, from what companies have you got quotations on sheets within the last two or three years?

A. From the Portsmouth, the American Steel & Iron, the Tennessee Coal & Iron and the Stark Rolling Mills.

Q. Do you ever get quotations from the Youngstown Sheet & Tube Company?

A. Not often. I think we have from the La Belle Iron & Steel Company occasionally.

Q. Does the Inland Steel Company quote to you?

A. No, sir.

Q. Does the Piqua Rolling Mill Company?

A. Yes; but not within the last year. I do not think we have had any from Piqua during the last year.

Q. Does the Newport Rolling Mill Company quote you?

A. No.

Q. Is there competition in sheets too, Mr. Hedges?

A. About the same as there is in plates.

Q. Coming to boiler tubes: What companies quote to you on boiler tubes?

A. The Mark Manufacturing Company, the Reading Iron Company and the National Tube Company.

Q. Do Spang, Chalfant & Company quote to you?

A. Spang, Chalfant & Company occasionally.

Q. The Bourne-Fuller Company?

A. The Bourne-Fuller Company, yes; they are agents; they quote us occasionally.

Q. Is there any competition in boiler tubes too?

A. About the same as there is in plates; a variation of 2½ to 5 per cent.

Q. Quotations there are made by discounts off a fixed list, are they not?

A. Discounts from a given list, yes.

Q. What range of variation do you get? Take the present time: What is the quoted discount?

A. The variation now is about 2½ per cent.

Q. I mean, what are the discounts that are being quoted at the present time off that list?

A. I guess 71 and two fives is supposed to be the price.

Q. 71 per cent. off this fixed list?

A. Yes.

Q. Nobody ever buys boiler tubes at the price of that list, do they?

A. No. They are sold at a discount from the list.

Q. Did you ever get quotations of the flat list price on boiler tubes?

A. Not in the last fifteen years.

Q. In all these products how long has this condition of competition existed, Mr. Hedges?

A. Seemingly since I have been in the business.

Q. Has there ever been a time when there was not competition for your business?

A. There has never been a time when prices did not vary.

Q. Has there ever been a time since 1901, when the Steel Corporation was formed, that you would not have been able, if you wished, to buy all of your requirements from its competitors?

A. We could have always bought our requirements from others than the Steel Corporation.

CROSS EXAMINATION

By Mr. Colton:

Q. What tonnage of plates were you buying in 1901?

A. I should judge about 1,500 to 2,000 tons.

Q. From what company did you get your plates in 1901?

A. In 1901, it is my recollection that we were buying most of our plates from Park Brothers & Company.

Q. Have you any recollection as to the price you paid them in 1901?

A. I have not; no, sir.

Mr. Reed: That was the Park Steel Company, was it not, in 1901?

The Witness: Park Brothers' Steel Company, I think.

By Mr. Colton:

Q. In 1902 where did you get your plates?

A. I don't remember.

Q. What companies quoted you in 1902 on plates?

A. It is too far back. I suppose that probably 60 per cent. of those that were in the business sent us quotations.

Q. And you found that the prices had been maintained about as much during the period immediately following the pools as they were during the pool?

A. Yes; as far as our quotations were concerned, about the same.

Q. In 1903, will you give me any information as to what companies quoted you, as to what the quotations were, and as to how many quotations were alike, and how many were different?

A. No, I could not.

Q. In 1904, the same question?

A. No; I could not.

Q. In 1905?

A. No, I could not.

Q. In 1906?

A. I can answer for 1906. In 1906, on steel plates, the Portsmouth Steel Company, the Illinois Steel Company, A.

B. Scully, Worth Brothers, the Lukens Iron & Steel Company. I think that is about all I remember.

Q. Can you give the different quotations?

A. No, I cannot give the different quotations.

Q. You cannot give how many were alike and how many were different at different times?

A. No, sir; only in a general way.

Q. And on the general average, as I understood your testimony, there would be——

A. On a general average there were always——

Q. One or two that were not all together?

A. They were not all alike.

Q. There would be one or two below the usual price, I understood you to say on your direct examination?

A. Yes.

Q. Out of five or six or more?

A. Yes.

Mr. Reed: Out of five or six or more, Mr. Hedges?

The Witness: I say out of, say, five quotations, there would be one or two that were lower than the higher ones.

By Mr. Colton:

Q. You cannot give any more definite statement for any of the different years down to the present time?

A. Since 1906 they have continued to run just about like my evidence there, as to variations in quotations, and about the same people quoting us.

Q. Now, let us have all the different people that quoted you. Perhaps you gave all that quoted you in 1906? Did you intend that for a complete list of the people that quoted you in 1906, in plates?

A. I think so. As nearly as I can remember it is complete.

(By request the stenographer repeated the answer referred to as follows:)

"A. In 1906 on steel plates the Portsmouth Steel Company, the Illinois Steel Company, A. B. Scully, Worth Brothers and the Lukens Iron & Steel Company. I think that is about all I can remember."

THE WITNESS: I believe you might add the Crucible Steel Company of America.

By MR. COLTON:

Q. How about the Carnegie Company?

A. We have never done very much business with the Carnegie Company in recent years.

Q. How about the Tennessee Coal & Iron Company?

A. The Tennessee Coal & Iron Company were not making plates large enough for boiler work until they were acquired by the United States Steel Corporation, when they put in their new mill.

Q. Now, in 1906 what portion of your plates did you get from the Illinois Company?

A. I am unable to tell you.

Q. As I understood you, you are not able to give the companies from which you purchased plates, or the percentage that you purchased, for any year from 1902 to 1906?

A. That is correct; I am not.

Q. Now, in 1907 can you tell from what company you purchased plates?

A. In 1907 we purchased plates from Worth Brothers, the Lukens Iron & Steel Company, the Portsmouth Steel Company, and since the Tennessee Coal, Iron & Railroad Company put in their new mill, we have been buying plates from them; and the Otis Steel Company.

Q. In 1913 what tonnage did you buy altogether in plates?

A. In plates, about 2,500 tons.

Q. What tonnage did you give the Tennessee Company in that year?

A. From the Corporation, in plates, about 35 per cent.

Q. No, I asked you about what tonnage you gave to the Tennessee Company.

A. The Tennessee Company, about 35 per cent.; we were buying all from the Tennessee Company in 1913. We did not buy from any of the other United States Steel Corporation companies.

MR. REED: You mean all you were buying from the Corporation came from the Tennessee Company?

THE WITNESS: The Tennessee Company, yes.

By MR. COLTON:

Q. And in 1912, do you recall what you bought from the Tennessee Company?

A. I do not know, but I believe it was about the same average.

Q. Now, take sheets; give the different companies that were quoting you on sheets in 1901.

A. In sheets, I can not give you anything.

Q. You have no recollection on that one way or the other?

A. No.

Q. You had less familiarity with that than you had with plates?

A. Yes; at that time I was not paying so much attention to sheets.

Q. What is the first time that you can recollect the persons from whom you purchased your sheets, the first year that you can recollect, the parties from whom you purchased your sheets?

A. Well, we purchased sheets—we always purchased some sheets from the Tennessee Company, always have purchased some sheets from them.

Q. Did you have quotations from the American Sheet & Tin Plate Company, or the American Sheet Steel Company?

A. I would say beyond a question of doubt that we got prices and quotations from 60 per cent. of the people that were furnishing sheets.

Q. Now, can you give the name of any other company than the Tennessee Company from which you got sheets?

A. Well, we used to buy some from Park Brothers.

Q. In 1902 where were you getting your sheets?

A. About the same sources as 1901.

Q. Who was it in 1901, the Tennessee Company?

A. We got some from the Tennessee Coal & Iron Company and some from Park Brothers.

Q. Do you know what percentage you got from the Tennessee Company and what percentage from Park Brothers?

A. I do not.

Q. And you do not recall any other company that quoted you on sheets?

A. No, I do not.

Q. What sizes were the sheets that you purchased?

A. Well, they were from 36 to 60 inches wide, and they would run all lengths.

Q. And thickness and gauge?

A. Under three-sixteenths, or three-sixteenths and under.

Q. What is the first year that you can remember any other companies in addition to the Tennessee Company and Park Brothers—give the first year that you can remember any other companies that quoted you on sheets.

A. The first year?

Q. Yes.

A. Well, 1889.

Q. In 1889 what companies quoted you that year?

A. There was Park Brothers, Carnegie Steel Company and the Otis Steel Company.

Q. That is sheets?

A. Sheets? Oh, yes; well, then, there was Park Brothers and the Tennessee Company.

Q. That is what I understood. Now, I want to call your attention to the fact, for the moment, that you thought I was speaking of plates.

A. Yes.

Q. Coming back to sheets, give the first year you can that any other company, in addition to Park Brothers and the Tennessee Company, quoted you on sheets.

A. That was in 1889.

Q. You did not give any additional company?

A. I can not give you any additional company.

Q. And the Carnegie Steel Company—you intended to remain there as quoting you on sheets?

A. I don't think so, the Carnegie Company.

Q. Give any other company that you know of.

A. I do not know of any other company.

Q. Give the first year that any other company besides Park Brothers and the Tennessee Company quoted you on sheets.

A. I thought I answered that and said 1889, that they had quoted us on sheets.

Q. What company quoted you on sheets in 1889?

A. On sheets, Park Brothers and the Tennessee Coal & Iron Company.

Q. Now, I want you to give, in addition to those two companies, the first year that any other company quoted you on sheets.

A. I can not give you the first year.

Q. Well, the first year that you remember that some other company quoted you.

A. The first year that I remember positively was last year; I am sure about that.

Q. 1913 would be the first year that you can remember positively any other company quoting you on sheets; that is correct, is it?

A. No, it is not. That would be a mistake. No, since 1906 we have had quotations from the Portsmouth Steel Company and the Stark Rolling Mills and the American Sheet & Iron.

Q. You mean the American Sheet & Tin Plate Company?

A. No.

Q. Where is the American Sheet & Iron Company?

A. At Lebanon.

MR. REED: The American Iron & Steel Company, isn't it?

THE WITNESS: The American Iron & Steel.

By MR. COLTON:

Q. What proportion of your sheets did you get from the Tennessee Company in 1913?

A. In 1913 we got about 70 per cent. of them—60 to 70 per cent.

Q. And in 1912?

A. In 1912 about the same proportion.

Q. Would that proportion hold back for some years, so far as you can recall?

A. No, I do not think it would run as heavy.

Q. What was it in 1910?

A. In 1910 it would probably run five per cent. less. We have continually been purchasing more from the Tennessee Company because their equipment is better and they have been making better sheets.

Q. You have been increasing your proportion, and you think it has increased about five per cent. in three or four years. What was it in 1906 and 1907, your percentage from the Tennessee Company?

A. I expect about 40 to 50 per cent.

Q. You have been getting for seven or eight years in the neighborhood of 50 per cent. or more from the Tennessee Company on sheets; is that correct?

A. Of sheets; yes.

Q. And the various companies in the sheet business competed with the Tennessee Company before its acquisition by the United States Steel Corporation?

A. Yes.

Q. Including the American Sheet & Tin Plate Company?

A. Yes.

MR. REED: The American Sheet & Tin Plate Company?

THE WITNESS: No, the American Steel & Iron Company, at Pennsylvania, isn't it?

MR. REED: It is for you to testify.

THE WITNESS: The American Steel & Iron.

By MR. COLTON:

Q. Are you using a memorandum to refresh your recollection? I do not especially object to it.

A. Yes, I use that to be sure of it; I know it is at Lebanon. There are several American companies, and I occasionally get mixed on them. This is the Lebanon company, the American Steel & Iron Company.

Q. Now, you spoke of these different companies that have quoted you from time to time since 1906. As I understand

it, you can not, in any given year, state which of those companies quoted you any year since 1906?

A. They have all quoted us during those years.

Q. They have all quoted you during those years, but you can not state which company quoted you at different times during those years?

A. They have quoted us every year, all of those companies.

Q. Name those companies that have quoted you every year.

A. On plates or sheets?

Q. Sheets; since 1906.

A. Since 1906 on sheets?

Q. Yes.

A. Well, the Stark Rolling Mills, and the Portsmouth Rolling Mills; the Tennessee Coal, Iron & Railroad Company and the American Iron & Steel Company.

Q. And those are the only companies that you can recollect getting quotations from during that period?

A. They quoted us.

Q. But are those the only companies? Do you recollect the American Sheet & Tin Plate Company quoting you during that period?

A. No.

Q. Do you know what the American Sheet & Tin Plate Company manufacture?

A. They manufacture tin, I believe; tin plate.

Q. You have not had personal charge of the purchases of the sheets, have you?

A. No; we have a purchasing man.

Q. You have a purchasing agent? And that perhaps would account for the fact that you are not familiar with the fact that the American Sheet & Tin Plate Company is the largest producer in the United States of sheets?

A. They are gloss sheets.

Q. What sort of sheets are these that you purchase?

A. We use dull sheets.

Q. That is, they are more like plates?

A. Yes; they are more like plates, only thinner.

Q. Are any of your plates iron plates?

A. Very few.

Q. What tonnage would there be of iron plates?

A. Very small; less than one per cent.

Q. How about sheets? Are any of your sheets iron sheets?

A. No; less than one per cent.

Q. Take boiler tubes. Are any of those iron?

A. Some iron.

Q. What per cent. are of iron?

A. I should judge 5 per cent.

Q. From the National Tube Company what tonnage did you get in boiler tubes last year?

A. Last year we got about 80 per cent. from the National.

Q. And in 1912 what percentage from the National?

A. About the same in 1912.

Q. And in 1911?

A. About the same.

Q. And in 1910?

A. About the same.

Q. You may have given it, but just for my convenience I would like to get that together: Take the year 1913, and will you give the tonnage that you bought in plates, first?

MR. REED: He has given that.

By MR. COLTON:

Q. I know that, but I want to get it together, for convenience.

A. About 2,500 tons.

Q. And from the subsidiaries of the United States Steel Corporation about 35 per cent., or about what in tons?

A. About 35 per cent.

Q. Can you give it in tons?

A. I can figure it. That would be about 875 tons. That is, plates.

Q. Now, in sheets, how many tons?

A. From 1,500 to 1,750.

Q. That is the number of sheets you purchased?

A. That is the number of tons of sheets we purchased from the Tennessee Coal & Iron Company.

MR. REED: Which is—the 1,500——

THE WITNESS: From 1,500 to 1,750; between 60 and 70 per cent.

By MR. COLTON:

Q. What is the total tonnage that you purchased?

A. 2,500 tons.

Q. And of boiler tubes, what is the tonnage you purchased?

A. We bought 3,000.

Q. All told about 3,000?

A. Yes, sir.

Q. What tonnage from the Corporation?

A. 80 per cent.

Q. That would be about 2,400?

A. 2,400 tons.

Q. Then you purchased over half of these steel products concerning which you have testified during the year 1913 from the United States Steel Corporation or its subsidiaries?

A. We purchased the tonnage that I gave you there. I do not know how it figures out, whether it is 50 per cent. or not.

Q. Will you figure it up?

MR. REED: I object to this as not cross examination and being a waste of time, to get the witness to do simple problems in arithmetic.

THE WITNESS: A little less than 50 per cent.

By MR. COLTON:

Q. Which did you take—the 1,500 tons or the 1,750 tons?

A. I was figuring the 1,500 tons.

Q. Have you figured it the other way?

A. Figuring it the other way, it would make just about 50 per cent.

Q. What different companies quoted you on boiler tubes in 1913?

A. The Reading Iron Company, the Mark Manufacturing

Company, the Bourne-Fuller Company, the National Tube Company. We may have had some quotations from the Monongahela Tube & Iron Company.

Q. I understood you to say that these price lists that are sent out—do not those price lists also show discounts?

A. The price list is the same with all manufacturers of boiler tubes. The price is made on a discount basis.

Q. Yes; but do not the price lists sent out by the different manufacturers include a discount list also? Is there not also a discount that accompanies the price list?

A. We never get our quotations in that way.

Q. You do not get quotations in that way? But you have a price list?

A. We have a price list always in our office.

Q. Does that price list that you have in your office contain any discounts?

A. It does not; no, sir.

Q. Do the companies send around discounts to you from time to time?

A. No, sir.

Q. You do not get your prices in that way?

A. No, sir.

Q. You are not familiar with the extent to which that is done in the trade?

A. I have never heard of it in boiler tubes.

MR. COLTON: That is all.

MR. REED: That is all.

JAMES BOWRON,

a witness previously sworn on behalf of the defendants, was recalled and testified further as follows:

CROSS EXAMINATION (Continued)

By MR. COLTON:

Q. Now, Mr. Bowron, will you please continue your answer.

A. (Continuing) Between 1910 and 1912 I received many offers of brown ore lands, and a good many of red ore lands, but not within the geographical area that you first outlined.

Q. I am not referring to those that were not within the geographical area that I outlined. I do not want those.

A. Confining myself to the area between Morrow's Gap and Spark's Gap, I would say that in addition to the three large tracts as to which I testified in my examination in chief, I was approached by the owners of the red ore lands owned by the Alabama Fuel & Iron Company, who promised to submit an offer, but did not.

Q. Then you did not get any offer from them?

A. Not in any commercial way; and it would not have made any difference if I had, because I already had more than sufficient red ore land under option at that time to supply all our requirements.

Q. You are speaking of the Southern Company, now?

A. I am speaking of the time after the bankruptcy of the Southern Company and when, for the first time, it was supposed in the district that money might be available for the purchase of such ore land.

I was approached by several different people whose names and addresses I cannot now remember, not having been much interested in their propositions, who desired to sell me additional red ore lands in reasonable proximity to one or another of the tracts on which I already had options; and I declined to consider any of them, for the reason that I was satisfied that the result of our drillings and investigations would prove one or the other tract sufficiently extensive and advantageous for us to fill our entire requirements; and I therefore declined to be bothered with miscellaneous offers which would have brought upon me the extra expense of drilling and testing their properties for them.

Q. Those properties had not been drilled and tested, as I understand?

A. No.

Q. Confining yourself to the properties that had been drilled and tested during that period from 1910 on, what properties were offered to you?

A. As I stated in my direct examination the Shannon-McDonough property, which we ultimately bought, the Skewes & Draper property.

Q. Where is the Shannon-McDonough property?

A. Two miles south of Oxmoor, on the main line of the Louisville & Nashville Railroad.

Q. How far from the outcrop?

A. Seven miles.

MR. REED: You have already asked him all about that, Mr. Colton.

MR. COLTON: I think not. I am now asking him about them separately. They were asked about all together.

MR. REED: You asked him how far it was from the outcrop, and he said seven miles. You asked him where it was and he said it was two miles south of Oxmoor. It is a comfort to know that it has not moved, I suppose.

THE WITNESS: Did you wish to ask anything more about the Shannon-McDonough property?

By MR. COLTON:

Q. What was the number of acres?

A. 1564 in the main tract, and there was a subsequent purchase of 40 acres close by.

Q. That was one of the three?

A. That was one of the three.

Q. And that is the one you got?

A. Yes.

Q. What are the other two?

A. One was the Skewes & Draper property, about two miles and a half west of the Shannon-McDonough property.

Q. How far from the outcrop?

A. From five to seven miles; I never figured it. We drilled that property and decided that at the difference in thickness of the ore and the difference in location and in quality and in price we had rather take the Shannon-McDonough property, and took it, accordingly.

The third, as I testified before, was the Aldrich tract, lying immediately behind the lands of the Bessemer Coal & Iron

Company to the east of Rosedale in Shades Valley, and lying under Shades Mountain.

Q. How far from the outcrop?

A. About five miles.

Q. I believe you gave fully your reasons for not taking that property?

A. It would have been difficult to test with drill holes, and I was already satisfied in my own mind that I intended to buy the Shannon-McDonough property if we could handle the financial end of it, and so I did not pay serious attention to that tract, although if we had had money enough I might have bought that in addition to the Shannon-McDonough.

Q. Has any ore been taken out for actual commercial use from under Shades Mountain as yet?

A. No, none of the slopes have yet gone so far.

Q. Have you now fully answered the question that was asked you? Have you completed your answer, is what I mean?

A. Oh, yes.

Q. I understood you to say it would have been very costly to put down drill holes at that point, the third point?

A. It would, except on the extreme westerly part of the tract, which was only 40 acres, and I did not think that would be an adequate criterion of the whole of the acreage.

Q. Now, what tonnage of ore lying within the district I have just named to you before—I will give it to you again—it is lying between Sparks Gap and Morrows Gap—what tonnage of ore has been taken out by your company since you have been connected with it from any of the different properties it has owned?

A. We have not taken any, because we have only one property, as to which I have testified that we are now engaged in sinking a slope to reach the ore.

Q. You have been a purchaser of iron ore?

A. We have been mining from our own red ore mines farther up in Alabama, at Crudup, about 63 miles from here, and also buying some in the open market.

Q. Now, what was the percentage of rails that the United

States Steel Corporation was manufacturing prior to the time it acquired the Tennessee Coal, Iron & Railroad Company, if you know?

MR. REED: The percentage of rails where, Mr. Colton?

MR. COLTON: In the United States.

THE WITNESS: I do not tax my mind with the outputs of any year of any product.

By MR. COLTON:

Q. And you haven't any idea whether it was 40 or 50 or 70 per cent. of the rails in the United States manufactured by the United States Steel Corporation at that time?

A. If it were necessary in my business to have the information, I would have it in about four minutes.

Q. I am asking you now——

A. (Interposing) But I do not carry it in the back of my head, loose, when I have no occasion for it.

Q. Did you know, in November, 1907, what percentage of rails the United States Steel Corporation was manufacturing, of those manufactured in the United States?

A. November, 1907?

MR. REED: Of course nobody could know it until the figures were made up.

MR. COLTON: They might know pretty close to it, if they knew anything about the subject at all.

THE WITNESS: I do not know, at that time especially, how many they made, but I knew at that time approximately what the total output was for the country.

By MR. COLTON:

Q. And you did not know what percentage theirs was of the total output?

A. I do not carry it in my head.

Q. Do you know what percentage of the wire output they were then making?

A. I did know such figures, but I do not now remember them.

Q. You do not know what percentage of the output in wire the United States Steel Corporation was making?

A. I was pretty well informed on statistical matters when I was in active business, but I have forgotten them; I have had no occasion to remember such figures.

Q. And you do not now know what percentage they were making in 1907 in wire products?

A. It is unnecessary for me to know. I carry the information on my desk in printed form.

Q. What printed form gives you the percentage manufactured by the United States Steel Corporation of wire rods, for example?

A. If I see in a statistical table the total output and that of the Corporation it tells me the percentage without sitting down to use a pencil and paper.

Q. Now, I want to know where you see it in a statistical paper. What statistical paper did you see it in?

A. I have seen such information in print many times.

Q. Where?

A. In such papers as the Iron Age, the Iron Trade Review and the Metal Market.

Q. Did you see it there in November, 1907?

A. I do not know when I saw it; I read technical journals more or less every day, and have done so for 40 years, but I can not remember when I saw the statement, nor do I tax my memory with the figures. The general effect is sufficient for me as affecting questions of policy.

Q. Now, do you know to what extent the purchase of the Tennessee Coal, Iron & Railroad Company increased the percentage that the United States Steel Corporation was then manufacturing of open hearth rails in the United States?

A. When I began to make open hearth rails there had not been any open hearth rails made in the United States except 2,000 tons by the Illinois Steel Company, and if the Corporation made none, its percentage of open hearth rails naturally would be marvellously affected, but it did not affect its percentage of rails as to the product of the country at large more than one per cent.

Q. Now, do you know that?

A. I did know it, because I took the trouble to get at the figures when we were discussing on the floor of the Chamber of Commerce the propriety of the Government undertaking what became afterwards the Stanley Investigation.

Q. Now, do you know what was the capacity of the Tennessee mill that the Corporation first put into operation?

A. I knew at that time.

Q. Do you know now whether you are speaking of what was the output under the old rail mill, or what was the output under the new mill which was built at the time the Corporation took over the property?

A. I could not differentiate now from memory between the two.

Q. You do not know, then, whether you took this old mill which the Tennessee people were discarding; that is, which the various members of the syndicate had decided on discarding, instead of the new mill which they were putting up and were ready to manufacture with, at the time the Corporation took it over?

MR. REED: May I suggest that if he or anybody else was considering what percentage of the country's product the Tennessee Company had made, they would not take into consideration a mill which was not yet in operation?

MR. COLTON: I am asking him if he took into account the capacity of the new rail mill of that company.

THE WITNESS: I could not now say what I took into account; the general effect on my mind at that time was that the Tennessee Company could make, and was making, about one per cent. of the rails of the country.

By MR. COLTON:

Q. And you do not know whether you took into consideration the new mill at all?

A. I do not now remember what was taken into consideration.

Q. Do you know what the blooming mill capacity of their new mill was?

A. I do not.

Q. Do you know what percentage of the ferro-manganese made in this country is made by the United States Steel Corporation?

A. The percentage of the ferro-manganese made in this country?

MR. REED: Objected to as not cross examination.

THE WITNESS: All of it.

By MR. COLTON:

Q. You did not intend to testify, as I understood it, in regard to prices or the operation of the steel business during the period other than up to May, 1901, and then from August 6, 1910, down to the present time? Those are the periods that you intended to testify to in regard to steel figures?

A. As having official relations to the steel trade; yes, you are correct.

Q. You do not know how the prices of 1909 compared with those of 1908, in the steel trade?

A. I do not remember them; I know they were better.

Q. You think you do know that, do you?

A. Yes.

Q. Now, as a matter of fact, were not prices very much lower from the spring of 1909 to the latter part of 1909 than they had been during 1908?

A. I am not undertaking to discriminate by months, but I know that the next improvement in prices in the iron and steel trade, following after the panic of 1908, began in the autumn of 1909 and lasted into the spring of 1910.

Q. But you do not know whether, on a general average, the prices of 1909 were very much lower than they were during 1908?

A. I do not carry the exact figures in my head. I have them in my office for reference when I need them.

Q. Yes, but you do not pretend to testify about those one way or the other?

A. No. If you wish, I will file you one of those charts of prices, which will give it exactly.

Q. You do not know how the output of 1908 compares with that of 1909, do you?

A. I do not carry tables of output statistics in my head.

Q. You are not familiar with the great drop that came in February, 1909, in steel products?

A. I do not especially remember, because at that time I was not in direct relation to the steel trade.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Mr. Bowron, something was said about the matter of ferro manganese. What kind of a furnace is that made in?

A. Usually in a small furnace—a blast furnace.

Q. Any blast furnace that will make iron from iron ore will make ferro manganese from the ore will it not?

A. Yes. By preference I would employ a small blast furnace, not exceeding 12 to 15 feet bosh for the purpose.

Q. Where does the ore come from from which ferro manganese is made?

A. Some is produced in Cuba. The greatest body that comes to this country is produced in Cuba. Some is mined in Arkansas, and a very limited quantity has been mined in Georgia.

Q. Is there any impediment to prevent any other owner of a blast furnace from making ferro manganese, if there is a market for it in this country, in the same way that the Steel Corporation does it?

A. Certainly not. I could make it myself if I wanted to, by importing the ore.

Q. That is what they do, is it not?

A. Yes. They must either import the ore or buy it in Arkansas.

Q. As to this matter of the protest which you made to your executive committee when you were vice-president of the Tennessee Company because of the fact that they were paying what seemed to you to be unearned dividends, I wanted to ask you whether, when that protest went unheeded, you took any further action, and if so what action did you take?

A. When that protest went unheeded and another dividend was declared a week or two later, I took the most decided action that I could take, and resigned my office with the company.

Q. Do you know whether or not dividends were continued after that?

A. No. My resignation, after controlling the company's finances for 26 years brought about the engagement of Mr. D. H. Bacon as Chairman of the Board, and he told me that he had never raised a dollar in his life, and asked me to put up for his benefit a scheme for financing the company; and I drew up for him a scheme for rehabilitating the finances of the company, involving the stoppage of dividends, and the issue of a new series of bonds.

Q. Were dividends then stopped?

A. They were.

RECROSS EXAMINATION

By Mr. Colton:

Q. What date was that?

A. The last dividend that was paid, I think, was on the 1st of October, 1900. I do not think that we paid the dividend on the 1st of January, 1901.

Q. And you do not know how many dividends were paid subsequent to that date?

A I am quite sure that they were stopped.

Q. You do not know? You were not in the employ of the company after that, were you?

A. Their official statements were published and I was in receipt of them for several years.

Q. Do you undertake to say that, between that time and November 1, 1907, there were no dividends paid by the Tennessee Company?

A. I do not.

Q. I do not understand you to testify as regards the extent to which dividends were paid after you left the company.

A. I say that, as a result of my communications with the new chairman of the board, dividends were stopped.

Q. But for how long they were stopped you do not know?

A. When they were resumed I do not know. I presume that information can be furnished by somebody else.

MR. COLTON: That is all.

(Whereupon an adjournment was taken until to-morrow, Saturday, January 10, 1914, at 10:30 o'clock a. m.)

ONE HUNDRED AND THIRTY-EIGHTH DAY.

FEDERAL BUILDING,
Birmingham, Alabama,

Saturday, January 10, 1914.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the Defendants, MR. REED.

PASCHAL G. SHOOK

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Shook?

A. In Birmingham.

Q. How long have you lived here?

A. Since 1896 in Birmingham proper, and since 1892 in the Birmingham district.

Q. From 1892 to 1896 what was your occupation?

A. First, in 1892, stenographer to the assistant general manager of the Tennessee Coal, Iron & Railroad Company; next, chief clerk to the General Manager of the Tennessee Company; after 1896, in 1898 I became the Secretary of the Alabama Steel & Shipbuilding Company, a company organized for the purpose of issuing securities to build the original steel plant at Ensley.

Q. It was a subsidiary of the Tennessee Coal, Iron & Railroad Company?

A. It was a subsidiary of the Tennessee Coal, Iron & Railroad Company, and the Tennessee Company owned all of the stock of the Alabama Steel & Shipbuilding Company.

Q. In 1898 what did you do?

A. While still holding the position of Secretary of the Alabama Steel & Shipbuilding Company I was appointed assistant general superintendent of the steel works at Ensley and held that position during the period of construction and for three years after the plant was put in operation.

Q. When did you leave the service of the Tennessee Company?

A. In 1901.

Q. What time in 1901?

A. My recollection is that it was in June or July of 1901.

Q. About the time that Mr. Bowron left the company?

A. About that time.

Q. Then in what business did you engage?

A. I organized the firm of Shook & Fletcher, and made arrangements with a number of northern concerns to represent them in the South as manufacturers' agents, opened a rail yard here and went into the sale of both relaying and new rails, and handled considerable coke, ore and pig iron.

Q. When you speak of rails, do you mean what are known as heavy rails or light rails?

A. We handle heavy relaying rails and light new rails; no heavy sections of new rails to amount to anything.

Q. You do not buy new heavy rails from the producers in any quantities?

A. No, sir.

MR. COLTON: Would you mind asking him what re-laying rails are, Mr. Reed?

THE WITNESS: Re-laying rails are rails that have been in service and are still suitable for use, and are usually bought by logging roads and small railroads, branch lines, where the traffic is not heavy, and where severe service is not encountered.

By MR. REED:

Q. It is a second-hand rail, in other words?

A. It is a second-hand rail, but too good for scrap, too good to be discarded for scrap.

Q. And you have been one of the partners in this firm of Shook & Fletcher since 1901?

A. Yes, sir.

Q. Have you, throughout that time, been dealing in light rails?

A. Yes.

Q. Buying them from the manufacturers of such rails?

A. Yes, sir.

Q. About what tonnage of light rails do you buy annually, Mr. Shook?

A. It varies considerably, the tonnage of new rails depending to a very great extent upon the tonnage of light relaying rails that we are able to secure; and when there are no light re-laying rails on the market, we buy an increased tonnage of new rails, and *vice versa*. I should say that, during the period mentioned, our average sales of new light rails have been about 2,500 tons per annum.

Q. What is the maximum tonnage of new light rails that you have bought in any year?

A. Well, that is hard to answer, without going back to the records. I should say, however, as much as 3,600 tons.

Q. Do you buy those light rails on a competitive basis?

A. Yes, sir.

Q. Do you buy on contracts over a specified period, or do you buy in lots as you need the material?

A. We have bought both ways. In almost all instances, however, in carload lots or 50-ton or 100-ton lots, sometimes as much as 300 to 500-ton lots; but very seldom in contracts running over any extended period.

Q. Do you ask for quotations from the different manufacturers before you place your order or let your contract?

A. We do, yes.

Q. Will you tell us the names of some of the manufacturers from whom you get quotations?

A. We have bought substantially from the re-rolling mills, among them the United States Rail Company of Cumberland, Maryland; the West Virginia Rail Company of Huntington, West Virginia; the Sweet Steel Company, of Williamsport,

Pennsylvania, and the billet rolled rails from the Tennessee Coal, Iron & Railroad Company, Bessemer Mill, what is now called the Gulf States Steel Company, Alabama City Mill, the Illinois Steel Company, the Carnegie Steel Company, the Jones & Laughlin Steel Company, and formerly from the Atlanta Steel Company, when that mill was on rails.

Q. Have you had quotations from the Lackawanna?

A. Yes.

Q. From the Maryland Steel?

A. Yes.

Q. From the Cambria Steel?

A. I do not know that we have ever had any quotations from the Cambria on light rails; that is, lighter than 40 pounds. When I speak of light rails, the general interpretation of that term is 12, 16 or 20 pound rails, or 8 pound rails. We sometimes buy as heavy as 40 pound rails.

Q. About what percentage of your purchases have been from the subsidiaries of the United States Steel Corporation?

Mr. Colton: May I ask whether that is confining him to new light rails?

By Mr. Reed:

Q. All light rails that you get from rolling mills?

A. We do not buy anything from the mills except new rails, of course, and nothing to speak of except light rails. Prior to 1913 our purchases were heavier from the subsidiaries of the United States Steel Corporation than they have been during that year. Without being able to answer the question very definitely without reference to our records, I should say that prior to 1913 about 25 per cent. of the total purchases, of course not taking into consideration the relaying rails, light rails; and since the first of 1913, probably not over 10 per cent., the reduced purchases in 1913 being due largely to the fact that the re-rolled rails have been coming into this market with lower prices than the billet rolled rails.

Q. Now, do the quotations that you get from these different manufacturers vary, or are they all alike?

A. They vary considerably.

Q. How long has that been so?

A. Ever since I have been in the rail business.

Q. That is about twelve years?

A. Since 1901; twelve years.

Q. Is there or has there been any indication of a combination among the manufacturers of rails?

A. None that I have ever been able to discover.

Q. Has the competition among them been keen or otherwise?

A. It has been very keen, judging from our experience with them.

Q. Of course I am only asking for your own experience with them. Has that competition for your business been active and aggressive?

A. Yes, they have all been anxious to get our business, apparently.

Q. Coming back, now, to the time when you were in the employ of the Tennessee Company, had you any familiarity then with its various properties, including not only its mills, but its supply of raw material, such as ore and coal?

A. Yes, I knew a good deal about it in a general way on account of my position as general manager of the company and the fact that my duties were to some extent in connection with the distribution of raw materials to the furnaces at that time, and prior to my active connection with the Tennessee Company my father was an official of the company and I was with him a great deal of the time traveling about over the properties, so that I have really been in a position to familiarize myself with the properties of the company ever since I can remember, long before 1892.

Q. What was your father's position in the company, Mr. Shook?

A. He started in as a clerk in the store at Tracy City, when the company was organized, immediately after the war. It was organized before the war, but his position dates from about 1865 or 1866, I think.

Q. Tell us what positions he has held.

A. He was then superintendent of the mines at Tracy

City, and afterwards became general manager of the company and held that position during the period when the company operated in Tennessee exclusively, and when the company acquired its Alabama properties in the late eighties, he was still general manager of the company, and had jurisdiction over the Alabama properties as well as the Tennessee properties.

Then he retired from the position of general manager, and Mr. G. B. McCormick was elected general manager, and he was elected vice-president.

Q. You mean your father was elected vice-president?

A. Yes; up to 1901, I think, when he left the employ of the company, about the same time that Mr. Bowron and I did.

Q. He was one of the executive officers from the time the company came to Alabama until he retired in 1901?

A. Yes.

Q. Having that knowledge of the affairs of the Tennessee Company, did you regard, or do you now regard the purchase of the Tennessee Company by the United States Steel Corporation as monopolistic?

MR. COLTON: Just a moment. I object to that on the ground that the witness is obviously incompetent to express any opinion on the subject; his experience is not such as to justify him in expressing any opinion; and on the further ground that it calls for a conclusion upon a state of facts not disclosed to the court, and the different facts upon which the witness bases his opinion are not disclosed to the court.

By MR. REED:

Q. Will you answer, please?

A. I do not so consider it.

Q. For what reason or reasons?

A. It is a matter of common knowledge that there are very extensive ores——

MR. COLTON: Just a moment. I object to the witness stating matters of common knowledge, as hearsay.

MR. REED: Won't you try to put the objection in after the question is asked, Mr. Colton, or the answer is finished?

MR. COLTON: I must object as hearsay as it comes out.

By Mr. Reed:

Q. Will you resume where you were interrupted, Mr. Shook?

A. (Continuing) That there are very extensive ore holdings of various large corporations in this district, some of them owning considerably more ore of a certain grade than the Tennessee Coal, Iron & Railroad Company owns. In amplifying that answer I should say that in 1904, when a movement was on foot to consolidate several of the large companies in this district, an appraisal committee was appointed, consisting of Mr. T. H. Aldrich, Mr. J. W. Worthington, Mr. Perrin, and Mr. Given, to investigate carefully all properties of these various companies and make a report on the ore holdings. The finding of that committee showed that so far as brown ore was concerned, the Republic Company had as much as the Tennessee Coal, Iron & Railroad Company, and that the Sloss-Sheffield Steel & Iron Company had more than twice as much.

Mr. Colton: I object to the witness' statement in reference to the finding of the report, on the ground that the report is the best evidence, and I object to his statement as to the amount of brown ore owned by the company as irrelevant and immaterial.

By Mr. Reed:

Q. Now, you have spoken of large quantities of ore being owned by these other furnace companies. Do you know whether or not there are large quantities of ore in the market and not held by any furnace company?

A. Yes, large individual holdings on Red Mountain and in Shades Valley.

Q. From the standpoint of a customer in the South, buying steel as you do, have you felt that the purchase of the Tennessee Company by the United States Steel Corporation has worked harm to you?

A. Not in the least; no, sir.

Q. Has it been of any benefit to you?

A. I think it has to all consumers of steel and to the community at large; vastly beneficial.

Q. What are your reasons for that statement?

A. On account of the very extensive development of the properties which had never taken place before; the properties of the Tennessee Coal, Iron & Railroad Company have been more fully and intelligently developed within the last seven years under the ownership of the United States Steel Corporation than had been done in the previous forty years.

Q. How about the quality of the product of the Tennessee Company? Has there been an improvement or a deterioration?

A. A marked improvement under the management of the present officials of the Tennessee Coal, Iron & Railroad Company.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. You stated that it was your opinion that the acquisition of the Tennessee Company by the United States Steel Corporation was not monopolistic in character?

A. Not in the least.

Q. Mr. Shook, would you have regarded a combination of all the independent companies outside of the United States Steel Corporation manufacturing steel in the United States as a combination monopolistic in character in November, 1907?

A. Taking all of them?

Q. Taking every one, outside of the Steel Corporation.

A. Yes, of course.

Q. That would have been, would it not?

A. Yes, if they had gotten them all.

Q. The United States Steel Corporation at that time had combined together a larger capacity than all the companies outside of the Steel Corporation combined; do you know that?

A. In this district, do you mean?

Q. In the entire United States.

A. I thought we were talking about the acquisition of the Tennessee Company, its effect upon monopolistic features.

Mr. Reed: You have made a statement of fact, Mr. Colton, without specifying what products——

Mr. Colton: Steel products generally.

Mr. Reed: Where its capacity was greater?

Mr. Colton: Steel products generally, as stated by Judge Gary and as shown by statistics.

By Mr. Colton:

Q. Then you do not mean to say that the Steel Corporation itself, taken in connection with the Tennessee Company, was not a monopolistic combination, do you?

A. You mean at the present time?

Q. At that time.

A. I do not think it was, unless it got them all.

Q. If it got 60 per cent. of all the companies, 60 per cent. of all the production of the country, would you regard that as a combination in restraint of trade?

A. Not 60 per cent.; no.

Q. You stated a moment ago that you regarded a combination of all the companies in the country, outside of the Steel Corporation at that time, at which time all the companies outside of the Steel Corporation only had 40 per cent. of the steel production—you said you would regard that as monopolistic in its character. Explain the difference between the two.

A. I misunderstood the question, if that is the way you put it.

Mr. Reed: I object to that as an incorrect statement of what the witness has testified to.

Mr. Colton: Read the witness his own testimony.

Mr. Reed: That is not necessary.

Mr. Colton: Yes. Read the witness's entire cross examination.

(The stenographer read as follows:)

"Q. You stated that it was your opinion that the acquisition of the Tennessee Company by the United States Steel Corporation was not monopolistic in character?

"A. Not in the least.

"Q. Mr. Shook, would you have regarded a combination of all the independent companies outside of the United States Steel Corporation manufacturing steel in the United States as a combination monopolistic in character in November, 1907?

"A. Taking all of them?

"Q. Taking every one, outside of the Steel Corporation.

"A. Yes, of course.

"Q. That would have been, would it not?

"A. Yes, if they had gotten them all.

"Q. The United States Steel Corporation at that time had combined together a larger capacity than all the companies outside of the Steel Corporation combined; do you know that?

"A. In this district, do you mean?

"Q. In the entire United States.

"A. I thought we were talking about the acquisition of the Tennessee Company, its effect upon monopolistic features.

"Mr. Reed: You have made a statement of fact, Mr. Colton, without specifying what products——

"Mr. Colton: Steel products generally.

"Mr. Reed: Where its capacity was greater?

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"Q. Then you do not mean to say that the Steel Corporation itself, taken in connection with the Tennessee Company, was not a monopolistic combination, do you?

"A. You mean at the present time?

"Q. At that time.

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"A. Not 60 per cent.; no.

"Q. You stated a moment ago that you regarded a combination of all the companies in the country, outside of the Steel Corporation at that time, at which time all the com-

panies outside of the Steel Corporation only had 40 per cent. of the steel production—you said you would regard that as monopolistic in its character. Explain the difference between the two.

"A. I misunderstood the question, if that is the way you put it."

MR. COLTON: Read the answer about its being monopolistic in character if they had taken all the companies.

(The stenographer read the testimony as follows:)

"Q. Mr. Shook, would you have regarded a combination of all the independent companies outside of the United States Steel Corporation manufacturing steel in the United States as a combination monopolistic in character in November, 1907?

"A. Taking all of them?

"Q. Taking every one, outside of the Steel Corporation?

"A. Yes, of course.

"Q. That would have been, would it not?

"A. Yes, if they had gotten them all."

THE WITNESS: If the Steel Corporation had got all the independent companies.

By MR. COLTON:

Q. Your first answer was to the effect that the combining of all the competitors outside of the Steel Corporation in one company would be monopolistic.

A. My understanding was that your question was if they were all combined in one company with the Steel Corporation, that would have been monopolistic.

Q. Then, to get monopoly you would want all of the companies combined?

A. Absolutely.

Q. I understand your idea of monopoly, then. And it was with that idea of monopoly in mind that you answered Mr. Reed?

A. That all would constitute it?

Q. Yes.

A. He asked the question if as at present constituted it was monopoly.

Q. I was asking now as to whether your idea of monopoly, which you just stated a moment ago, was a combination of all companies—that you would regard that as monopoly—and if that was your idea of monopoly. Is that correct?

A. If the process should go so far as to control 90 or 95 per cent., it might be considered as a practical monopoly.

Q. You have given a good deal of thought to just what percentage would constitute monopoly, have you?

A. I have undertaken to give some thought to it just now; I have not done so heretofore.

Q. This is just a sort of chance opinion that you are expressing on this question, then?

A. No; I am expressing the opinion that I think is held by the average intelligent man.

Q. That it takes about 90 per cent.?

A. Yes.

Q. As regards brown ore, do you not know enough about the steel business to know that the brown ore produced in the United States has always been insignificant as compared with the production of other ores in the United States?

A. I am not familiar with the brown ore production in the States outside of Alabama, Georgia and Tennessee. I know that in these three states it has been a factor, and that the more they could get, the better off they were.

Q. Your knowledge is very local in that, then?

A. So far as the production of ore is concerned, it is confined largely to the southern territory.

Q. Can you give me any figures of the relative production of brown ore in the State of Alabama as compared with red ore—say for the year 1901?

A. No; I cannot go back that far and tell you what the figures were.

Q. Take it for the year 1907, then.

A. The percentage as compared with the percentage of red ore has always been small.

Q. Yes; always small?

A. But the value has been greater per ton and the more brown ore they have been able to get for their furnaces the

better operating conditions they have had and the better iron they have made.

Q. Do you not know that the Tennessee Company control, according to the report to which you referred, more than 75 per cent. of the ore, taken as a whole?

MR. REED: I object to that. Neither the report nor Mr. Shook have said anything of the kind.

By MR. COLTON:

Q. I am asking him, now, that fact.

A. You mean the total?

Q. Yes.

A. I do not remember the percentage.

Q. You do not know what it was?

A. I do not remember the percentage of the whole.

Q. You do not know anything about it except just what came in the report, do you?

A. You mean about the holdings?

Q. Yes.

A. Yes; I have a general knowledge of the holdings outside of the report, and had it before that report was made.

Q. What study of their holdings did you make between 1901 and 1904?

A. No special study, except to familiarize myself with the conditions generally, by coming in contact with the operations and affairs of the various companies, by virtue of my position with the Tennessee Company.

Q. What did you do in the way of investigating the ore holdings of the Tennessee Company and the other companies in this district, during the years from 1901 to 1904 inclusive?

A. I made no special investigation.

Q. Did you make any investigation? If so, what?

A. I simply have that information because it was generally known, and is known now, about what the various holdings are on Red Mountain.

Q. Your knowledge is purely hearsay and general?

A. Not altogether, no.

Q. Then, if you have any personal knowledge that you

derived during the years 1901 to 1904, just tell me how you derived it.

A. I have been on the property, I have walked over it and I have ridden over it.

Q. And the way you got it was by walking over the property and riding over the property? What property did you walk over and ride over?

A. Many properties in this district, of the various companies.

Q. State which ones?

A. The Tennessee Company's properties.

Q. Did you ride over the Tennessee Company's properties —all of them?

A. No, sir.

Q. What portion of them did you ride over?

A. I could not undertake to say.

Q. If you did not ride over the whole of them, and you do not know what portion of them you did ride over, how can you know what portion it is of the whole?

A. I have not undertaken to give you the proportion it was of the whole.

Q. Since 1904 have you made any further personal investigation than you made up to 1904 of the ore holdings of the Tennessee Company?

A. No, sir; I have not.

Q. I understand you to say that you were with the Tennessee Company for three years after it began operations at Ensley?

A. Yes; from 1899, when the plant started, until 1901.

Q. What was the capacity of the Ensley plant when you were connected with it?

A. It had a nominal capacity of 1,000 tons per day, but in fact it never ran that capacity during my connection with the company.

Q. You mean it never reached that output?

A. That output, yes.

Q. What was the maximum output that it ran?

A. I should say about half of that.

Q. And when you say a thousand tons a day are you speaking of double or single turn?

A. Double turn.

Q. You are speaking of steel ingots?

A. Steel ingots, yes.

Q. When you were connected with the company, had it begun the manufacture of steel rails?

A. My recollection is that the rail mill was being built when I left the plant at Ensley. I do not think it had been put in operation.

Q. As the mill then existed, do you know what its capacity was?

A. The rail mill?

Q. Yes. I do not want you to answer unless you feel that you know.

A. My best recollection is that they expected to roll about 500 tons of rails a day on that mill.

Q. And that would be what per year?

A. Running 25 days in the month, say, it would be 150,000 tons per year.

Q. Had you visited the new rail mill of the Tennessee Coal, Iron & Railroad Company before November, 1907?

A. Oh, yes; I was there frequently between the time I left and up to November, 1907.

Q. Do you know what the output of the Tennessee Coal, Iron & Railroad Company was in 1908 in rails?

A. No, sir.

Q. Don't you know that it was greater than that of the Cambria Company in that year?

A. I do not. I have no information as to the output of either company that year.

Q. Did you know that the Tennessee Coal, Iron & Railroad Company sold something like 400,000 tons of rails in 1907?

A. I do not recall the figures. I do not know what their sales were.

MR. REED: 1907, do you say, Mr. Colton?

MR. COLTON: Yes.

MR. REED: Sold or made?

MR. COLTON: Sold.

By MR. COLTON:

Q. Do you know enough about the sale of rails to know whether that is a very considerable tonnage to sell?

A. I should say that is a very respectable tonnage.

Q. A pretty good sized competitor to sell that amount of tonnage?

A. Yes; that is a very respectable tonnage of rails.

Q. Now, confining yourself to the kind of light rails that the Corporation or its subsidiaries make, they do not re-roll rails, do they?

A. Not that I know of. I never bought any re-rolled rails from them.

Q. Confining yourself to new light rails, what tonnage do you buy per year, leaving out the re-rolled rails?

A. You mean billet-rolled rails?

Q. Yes.

A. In 1913 our tonnage was exceedingly small, on account of the fact that the re-rolling mills were offering rails in this market at considerable less price than mills rolling rails from billets.

Q. Take 1912, then.

A. My recollection is that we bought in that year a greater percentage of billet-rolled than we did in 1913, and of course correspondingly less re-rolled rails. I cannot give the exact figures from memory.

Q. Approximately will be enough for me.

A. I should say that in 1912 it was about half and half.

Q. How many tons would that be?

A. About 1,200 or 1,500 tons each, probably.

Q. And of that 1,200 or 1,500 tons what percentage of the new billet rolled rails did you get from the subsidiaries of the United States Steel Corporation?

A. That is hard to say from memory. We bought rails from various mills at different times. As I stated before, I think that prior to 1913 our purchases would amount to 25

per cent., and I should say now that it would be approximately that, of billet rolled rails.

Q. I understand, but what portion of billet-rolled rails did you get from the Corporation?

A. About 25 per cent.

Q. How many tons did you get from the Tennessee Company in 1912?

A. I cannot tell you without referring to the books.

Q. You have no recollection about that, without referring to the books?

A. I am simply giving you, as best I can recall, an approximate estimate of the total purchases of billet-rolled rails from the Tennessee Company and the Illinois Steel Company and the Carnegie Steel Company. I do not remember how the tonnage was divided. I think the records would show that a greater percentage was bought from the Tennessee Coal, Iron & Railroad Company, on account of their having a mill located in this district, at Bessemer.

Q. But you cannot give me any idea, even for 1912, as to how many tons of new rolled rails you got from the Tennessee Company?

A. I have undertaken to give you an idea.

Q. What is it?

A. I stated that I thought we bought about 25 per cent.

Q. From the Tennessee Company?

A. No; from the Steel Corporation.

Q. I want an idea of how many you got from the Tennessee Company in 1912.

A. I think practically all of the 25 per cent. in that year were probably shipped to us from the Bessemer mill of the Tennessee Company.

Q. You bought in that year about 25 per cent. of all your rails from the Tennessee Company?

MR. REED: No; he said 25 per cent. of his billet rails. What is the use of misquoting the witness, Mr. Colton?

MR. COLTON: I am not misquoting the witness. On his direct examination he said 25 per cent. of all of his rails were bought from the Corporation.

THE WITNESS: Yes; and then you asked what percentage of the billet rolled rails we bought from the Tennessee Company. I undertook to estimate it at about 25 per cent.

By MR. COLTON:

Q. You bought about 25 per cent. of all your rails from subsidiaries of the United States Steel Corporation?

A. That is my best recollection.

Q. Then, if you bought 25 per cent. from the Corporation, and you bought about 2,400 tons of rails altogether, that would mean that you bought from the Corporation about 600 tons, would it not?

A. Yes.

Q. I want to know how that 600 tons was divided up?

A. Between the various mills of the steel Corporation?

Q. Yes.

A. I think practically all from the Tennessee Company.

Q. And all of it, so far as you recall, in 1912 of that 600 tons was billet rails, was it not?

A. No; I said about 2,500 tons total, I think; both re-rolled and billet rolled.

Q. Now, those 600 tons that we are talking about now—I want to know how much of that 600 tons was new light rails made by the Tennessee Company.

A. If the total tonnage was 2,500 tons, the 25 per cent. of that that we are talking about would be only about 300 tons; if you are taking into consideration the billet rails only.

Q. I understood you to say that you got about 600 tons from the Corporation in 1912 of light rails, altogether?

A. No; I said my recollection was that in 1912 we bought about 2,500 tons of light rails.

Q. And that of your total tonnage you got about 25 per cent. from the Tennessee Company?

A. About half of that tonnage was re-rolled, as best I can recall, and about half billet rolled; and that as best I can recall, about 25 per cent. of the billet rolled, or new rails, was from the Tennessee Company.

Q. As I understood your direct examination, it was that you got 25 per cent. of your light rails, other than re-laying

light rails, from the Steel Corporation. Is that correct, or do you want to change that testimony?

A. I said that about 25 per cent. of the whole, as I recall, was bought from the Tennessee Company.

Q. That was true in 1912?

A. I think so, yes.

Q. That would be about 600 tons, would it not?

A. No; if we only bought about 2,500 tons of billet rails and re-rolled rails in 1912, and about half was rerolled, that would reduce that by about one-half.

Q. Take 1911.

A. I think the same figures would apply.

Q. That is, you bought about 25 per cent. from the Tennessee Company?

A. I should say about 25 per cent. of the billet rolled rails, which constituted about half the purchases, as far as I can recollect.

Q. Do you mean to change your testimony on direct examination that you got 25 per cent. of all your light rails, other than re-laying rails, from the Steel Corporation?

A. Other than re-laying or re-rolled.

Q. You did not say that on your direct examination.

A. I think I did. I do not recall. I said we bought only billet rolled rails from the Tennessee Company, or any subsidiaries of the United States Steel Corporation, and that our purchases of billet rolled rails and re-rolled rails was about half and half, as near as I can recollect

Q. I would like to know how much information you have about your purchases of rails. Did you purchase them, your rails, in 1900 yourself?

A. They were either purchased by myself or my partner.

MR. REED: In 1900?

THE WITNESS: In 1901 we started in business.

By MR. COLTON:

Q. In 1901?

A. Yes.

Q. Of your new billet rolled rails, from what company did you get them in 1901?

A. That is a good long time ago; I do not know that I could answer that question. I think our record would show that we were buying rails from all the mills in the South that were rolling them at that time; I do not know whether the Atlanta mill was running on rails at all at that time.

Q. You do not know whether the Atlanta mills were rolling at that time?

A. No, sir.

Q. You say all the mills in the South. What were they, that were rolling new billet rails at that time?

A. My recollection is that there was one located at Anniston, Alabama, rolling at that time. They afterwards moved to Alabama City, now owned by the Gulf States Steel Company; and I think the Bessemer mill of the Tennessee Coal, Iron & Railroad Company was at that time, on light rails.

Q. Do you know how much of your tonnage you got from the Bessemer Company and how much you got from that other company?

A. I couldn't tell you now; that is twelve years ago.

Q. Don't you know that you got a majority from the Tennessee Company that year?

A. No, I do not.

Q. You do not remember anything about the percentage, do you?

A. Not for 1901; no.

Q. In 1902, do you remember anything about the percentage?

A. The same answer applies.

Q. In 1903, do you know anything about the percentage?

A. No, sir.

Q. In 1904, do you know anything about the percentage?

A. No, sir.

Q. In 1905, anything about percentage?

A. No.

Q. 1906, anything about percentage?

A. No.

Q. 1907, anything about percentage?

A. No.

Q. 1908, anything about percentage?

A. I have not looked up the tonnage for 1908 or any year previous.

Q. 1909?

A. I have not gone back that far to investigate.

Q. 1910?

A. I haven't gone back that far.

Q. 1911?

A. I should say that in 1911 our purchases were in about the same proportion as those of 1912 and 1913, as covered by my testimony.

Q. Just tell me what purchases you personally made in the year 1911 of light rails, that you now recall.

A. I could not answer that question, because I do not know what the tonnage was that I bought, or what tonnage Mr. Fletcher bought, and I could not tell you in exact figures what tonnage the firm bought. I am only undertaking to give you approximate figures, as nearly correct as I can, from memory.

Q. What tonnage of rails, all told, did you get from the Tennessee Company in 1911, according to your best recollection, if you have any recollection?

A. I stated that in 1912——

Q. (Interposing) I do not know what you said; I want to know what you now recollect, if you have any recollection.

A. My recollection is that in the years 1911 and 1912 we purchased as much as 2,500 tons of light rails, and about half of that tonnage was billet rolled and probably half rerolled, and that of our purchases of billet rolled rails in the years prior to 1913, or say in the years 1911 and 1912, about 25 per cent. were purchased from the Tennessee Company.

Q. How much from the Illinois?

A. Very little; I do not recall what tonnage.

Q. You do not know what the percentage was from the Illinois Company in the year 1911?

A. No, I do not.

Q. Do you know what it was from the Carnegie Company in 1911?

A. A very small tonnage; I should say just a few carloads.

Q. Can you give me the number of purchases that you made in 1911?

A. I cannot.

Q. Can you give me the number of tons that you purchased in 1911?

A. Not from memory, exactly; I presume—I estimate it to be about 2,500 tons to 3,000 tons.

Q. And what is your estimate based on? What actual knowledge?

A. Based upon the fact that I know that we handle in this market, depending upon trade conditions and general business conditions, anywhere from 100 to 300 tons of light rails a month.

Q. Don't you know that in the year 1911 that was a light year?

A. It may have been.

Q. You do not know, you do not recall?

A. I have not gone back over our records to see whether we sold a larger tonnage than the average, or less tonnage than the average in that year.

Q. Take the year 1913: how many tons of new rolled billet rails did you get from the Tennessee Company?

A. A very small tonnage.

Q. How much?

A. I do not recall in figures, but I should say not over ten per cent. of our sales.

Q. Not over ten per cent.?

A. Yes, sir.

Q. But of new billet rails?

A. Yes; they do not furnish re-rolled.

Q. And of the new billet rails, what percentage of those did you get from the Tennessee Company?

A. I should say in 1913 not over ten per cent.

Q. What other companies did you buy from, of new billet rolled rails, in 1913?

A. The Southern Iron & Steel Company, a considerable tonnage of new billet rolled rails that were rolled by the Southern Iron & Steel Company and taken by its various creditors in settlement of debt; those rails were on the market

here for a long time during 1913, around at different points in Alabama.

Q. And you were practically out of the new billet rolled rail business in 1913?

A. We bought a considerable tonnage of billet rolled rails from parties in the manner I have mentioned.

Q. How many tons?

A. I don't recall the exact tonnage.

Q. It was less than ten per cent. of your purchases, was it not?

A. From these outside concerns.

Q. The amount that you got from the Southern Company was less than ten per cent. of your total purchases in light rails?

A. I should say in light billet rolled rails it was more than ten per cent.

Q. No, but of all your rails, it was less than ten per cent. of your purchases?

A. You said "billet rolled rails."

Q. I mean all the purchases.

A. Of all the purchases, including light re-rolled rails, I should say it was. In 1913 the bulk of those rails that were sold in this market were light re-rolled rails from northern mills.

Q. What price did you pay the Tennessee Company for new billet rolled rails in 1913?

A. What size rails do you refer to?

Q. Light rails.

A. There are different prices for different sizes.

Q. Give it for all the sizes you can remember, giving the size and the price.

A. My recollection is that such rails as they sold us in 1913 were sold at about $1.60 at the mills in 1913.

Q. What did you pay the Tennessee Company in 1912 for its new billet rolled rails?

A. I do not recall the price in 1912.

Q. Do you recall the price that you paid any other company in 1912 for their new billet rolled rails?

A. No, I do not.

Q. You do not recall the prices of the new billet rolled rails from the different mills, do you?

A. Not now, for 1912; no, sir.

Q. You do not recall the relation to each other, do you?

A. What?

Q. The relation of those prices to each other in 1912?

A. I think I am correct in saying that re-rolled rails were then cheaper than billet rolled rails, just as they have been since.

Q. I will go back. Take the year 1901; do you recall what companies quoted you on new billet rolled light rails?

A. I do not; no, sir.

Q. Do you recall how many were alike and how many were different in price for that year?

A. I do not.

Q. Would your answers be the same for 1902, 1903, 1904, 1905?

A. Yes, all the way down. I do not remember. For 1912, I do; of course I do not remember back of that.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Do you remember the fact that there has been open competition all through these years?

A. Yes; ever since we have been in the rail business there has been competition for our business.

RECROSS EXAMINATION

By Mr. Colton:

Q. Did the Tennessee Company and the Carnegie Steel Company and the Illinois Company quote you on light rails before the Tennessee Company was absorbed by the United States Steel Corporation, from time to time?

A. My recollection is that they did; yes.

Q. And those three companies, the Tennessee Company, the Illinois Company and the Carnegie Steel Company, com-

peted for your business in new light billet-rolled rails prior to the acquisition of the Tennessee Coal, Iron & Railroad Company?

A. I do not know that they sent solicitors to us to ask for our business, but my recollection is that we got quotations from those companies prior to that time through the Atlanta office; up to the time that the Tennessee Company was acquired by the Steel Corporation they had no office in Birmingham, but they moved their office here.

Q. You occasionally bought from these different companies during the period before their acquisition by the United States Steel Corporation?

A. My recollection is that we did.

Q. I probably misled you in saying "before their acquisition." I should have said before the acquisition of the Tennessee Company by the United States Steel Corporation.

A. That is what I understood you to say.

Q. As I understood you, you from time to time bought from the Illinois Company, the Carnegie Company and the Tennessee Coal, Iron & Railroad Company new light billet-rolled rails, prior to the acquisition of the Tennessee Company by the United States Steel Corporation; is that correct?

A. To the best of my recollection, we did.

Q. Those companies were in competition with one another prior to the acquisition of the Tennessee Company by the United States Steel Corporation?

A. I do not know that they were with one another.

Q. Well, they made sales to you, didn't they?

A. My recollection is that they did. I could not state positively that they did, but I am certain that we got prices, and I think we did business through that Atlanta office.

Q. You do not know of any pooling arrangement that existed between the Tennessee Company and the Illinois Company during that period, that prevented competition between those companies, do you?

A. You mean prior to 1907?

Q. Yes.

A. No, sir; I do not.

Q. You do not know whether the Tennessee Company was in the rail pool or not, do you?

A. I do not; no, sir.

By Mr. Reed:

Q. Did you ever hear of any rail pool in light rails?

A. I never did; no, sir.

By Mr. Colton:

Q. Don't you know that the rail pool had a side agreement in regard to light rails, in reference to price, a gentlemen's agreement?

A. No.

Q. You do not know about that one way or the other?

A. I never heard of it before.

AUSTIN C. CONVERSE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Chattanooga.

Q. What is your occupation?

A. President and general manager of the Price & Evans Foundry Company.

Q. What business does the Price & Evans Foundry Company do?

A. Manufacturers of architectural and ornamental iron work, and the sale of structural steel, fabricated.

Q. How long have you been president of that company?

A. Seven years.

Q. How long have you been general manager of it?

A. Nine.

Q. In what year did you start?

A. 1905.

Q. That company buys steel bars, I suppose?

A. Yes.

Q. About what tonnage does it buy in a year?

A. At the present time, and for the last two or three years, we have been using about 300 tons of bars and light angles.

Q. Bar mill products?

A. Yes, bar mill products.

Q. And about what tonnage of structural shapes do you buy in a year?

A. In plain and fabricated form, about 1,200 tons.

Q. What part of that is fabricated and what part plain?

A. I should say it was 95 per cent. of it fabricated.

Q. Taking bars first, do you buy those on a competitive basis?

A. Yes; we generally send out and get prices from three to six concerns.

Q. Why don't you send out and get prices from more than that many?

A. Well, that is about the number that we feel can make us prices which we could consider as competitive, on account of the location of their mills and their freight rates, which influence the delivered price.

Q. What companies do you apply to for quotations?

A. The Tennessee Company and the Gulf States Steel Company, and their predecessors, John C. Vance, the Eastern Steel Company, Jones & Laughlin Steel Company, and at times Joseph T. Ryerson & Sons.

Q. Did you ask quotations from the Republic?

A. Yes, the Republic Iron & Steel Company also.

Q. Do the quotations on bars that are made to you vary?

A. Yes, they will vary from fifty cents to two dollars a ton during various years.

Q. How long has that been so, that the quotations varied?

A. Ever since we have been buying.

Q. You have been familiar with the buying, have you, during the nine years that you have been general manager?

A. Yes.

Q. Has there been anything in the quotations that were made to you to indicate that there was a combination among the manufacturers to fix prices?

A. No, I would not judge there was. There is——

Q. You have not——

MR. COLTON: Wait; I think the witness was starting to say something. He said "there is."

MR. REED: Did I interrupt you?

MR. COLTON: I understood him to say so.

THE WITNESS: There is nothing in the price that would indicate to us that there is any combination, during the period that we have been using bars.

By MR. REED:

Q. Is the competition among these different manufacturers active or otherwise?

MR. COLTON: Objected to on the ground that the witness cannot possibly know the different arrangements that existed from time to time between these different manufacturers as to minimum prices or understandings as to minimum price or co-operative movements as to minimum price.

THE WITNESS: I would consider it active, because they always have their representatives call upon us at various periods to solicit business.

By MR. REED:

Q. Does there or does there not appear to be aggressive, earnest competition among them for your business?

MR. COLTON: Objected to on the ground that it calls for a conclusion of the witness upon a state of facts not disclosed to the court, and upon the further ground that the witness has already answered.

THE WITNESS: I would consider that they do show a desire for our business.

By MR. REED:

Q. As to shapes: Do you buy them on a competitive basis?

A. Yes; on the same plan.

Q. What companies do you get your quotations from on shapes?

A. The Eastern Steel Company, the Phoenix Iron & Steel Company, Jones & Laughlin Steel Company, Carnegie Company; and, on fabricated forms, the Illinois Steel Company, Joseph T. Ryerson & Sons, the Bourne-Fuller Company. I believe that is about it, in addition to the ones previously mentioned.

Q. Do you ever get quotations from the Lackawanna Steel Company?

A. Through their Cincinnati representative, the Cincinnati Iron & Steel Company.

Q. They handle the Lackawanna's product at Cincinnati, do they?

A. Yes.

Q. Do you find variations in the quotations on structural material too?

A. On fabricated forms there is a variation of from five to ten or fifteen per cent., according to the nature of the work.

Q. Do you find variations on plain material?

A. Yes; but not so great.

Q. The range of variation is narrower on plain material?

A. Yes.

Q. And the price is lower, is it not?

A. Yes.

Q. How long have those conditions obtained as to variation?

A. Ever since we have been buying those products.

Q. Is the competition in structural material, both plain and fabricated, active or otherwise?

MR. COLTON: Objected to on the ground that the witness cannot possibly give an opinion upon whether there is competition among these different manufacturers, knowing nothing as to their arrangements with regard to minimum price; the witness is incompetent to express a general opinion of that kind.

THE WITNESS: It altogether depends on conditions. When there is a lack of orders at the mills there is keen competition. During times of prosperity, they are not so anxious, because they could not make deliveries.

By Mr. Reed:

Q. When they need the business, they compete to get it?

A. Yes.

CROSS EXAMINATION

By Mr. Colton:

Q. During the years 1908 and 1909, do you know anything about the relative lack of orders at the mills?

A. Well, following the panic of 1907, I should judge that they were pretty keen for business; that nearly everyone in business was; especially in the structural line.

Q. Do you now recall whether the prices were lower in 1909, about February to November, than they were at any time during the year 1908?

A. No; I could not say positively.

Q. You have no recollection with reference to prices during the years 1908 and 1909, have you?

A. Not in the way of a base price, no.

Q. Your business was very small?

A. Quite so, yes.

Q. In 1905 would you give me the different companies that quoted you on bars?

A. At that period we started into our present line of business, and the consumption of bars was very limited.

Q. How much was it?

A. I do not suppose it would amount to 50 or 100 tons during the year. We were simply starting.

Q. And you do not now recall the different companies that quoted you in 1905?

A. The probabilities are that——

Q. I do not want the probabilities. I want to know what you recall, if you have any recollection?

A. Our purchase of bars at that time would have been through John C. Vance.

Q. And you did not buy from the mills at that period?

A. No; because we were such small buyers.

Q. In 1906, would your answer be the same?

A. Yes, sir; I think so.

Q. In 1907?

A. At that time we were probably securing prices from the Tennessee Company in addition to John C. Vance.

Q. That would be the only other company you would ask for quotations on bars?

A. On bars, yes.

Q. What was your tonnage on bars in 1907?

A. I could not state positively the tonnage, but a small amount—perhaps 100 tons.

Q. Do you recall what percentage you got from the Tennessee Company and what percentage you got from Vance in 1907?

A. No; I could not state positively.

Q. In 1908 would there be any additional company that would quote you on bars that year, or was there as a matter of recollection, any other?

A. No; I think it was confined to those two companies at that time.

Q. One of which was a jobber—Vance?

A. Yes. He represents the Atlanta Steel Company, as I remember it, and the Knoxville Company.

Q. Practically their agent?

A. Practically their agent; something more than a jobber.

Q. He is an agent rather than a jobber?

A. Yes.

Q. But looking back to those companies, you got quotations indirectly from the Atlanta Company and the Tennessee Company for 1908?

A. And the Knoxville Iron Company.

Q. And the Knoxville Iron Company makes only iron bars, does it not?

A. When I referred to bars I meant steel and iron bars.

Q. What percentage of your bars was iron?

A. I could not state the proportion.

Q. Could you not give me any idea of the proportion?

A. No; I would not endeavor to do that. It was too far back.

Q. Would it be as much as 60 per cent.?

A. I would not state that, because it would be simply a guess at random, and it might be correct or it might not be correct.

Q. What per cent. was iron?

A. I would not say as to that.

Q. You do not mean to say that you cannot tell me whether it was 90 per cent. iron or 10 per cent. iron?

A. No; I would not attempt to say——

Q. You paid so little attention to the bar purchases that you do not know within 90 per cent. of the character of bars that you were buying during the years from 1905 to 1908, inclusive?

A. No; I did not state that, did I?

Q. Is it a fact?

A. No; it is not a fact.

Q. All right. If it is not a fact I would like you to give me the percentage, just as close as you can, between iron and steel bars.

A. Well, put it on the basis, say, of 40 per cent. iron.

Q. In 1909 what was your tonnage in bars altogether?

A. Approximately 150 tons.

Q. That would be about 40 per cent. iron, approximately?

A. No. We found the iron product was not as satisfactory, and we gradually decreased our purchase of iron and increased in steel; perhaps 50 per cent. in iron.

Q. You do not mean, perhaps, 50 per cent. in iron, do you? Or else you mean, in the other case, 60 per cent. iron, did you not?

A. I put it 40 per cent. iron the other time, did I not?

Q. Yes. And now you state it to be 50 per cent. iron.

A. No; I would want to correct that. I should say that it would be somewhat less than 40 per cent.

Q. It would be somewhere between 30 and 40 per cent.?

A. Yes; you can put it that way.

Q. And what different companies quoted you on bars in 1909?

A. The Jones & Laughlin Steel Company also quoted us on bars at that time, as well as the Republic.

Q. And the Tennessee?

A. The Tennessee and John C. Vance.

Q. From what companies did you purchase that year?

A. We had a contract with the Republic Iron & Steel Company, and also with the Tennessee Company, but we also bought from John C. Vance.

Q. About how was your tonnage divided among those three companies?

A. I could not state the proportion.

Q. Do you remember the price of each of those?

A. No, sir; I do not.

Q. You have no idea what the price was between those three companies, have you?

A. No; I could not give you a positive statement as to the base price. It is too far back.

Q. You have no memory that far back about price?

A. Not for details of that kind, no; only in a general way.

Q. You do not remember, for that particular year, whether the price was the same or different for those three companies, do you?

A. Well, prices always vary. I have rarely seen the time when, in buying, prices are the same, any more than our selling prices are the same.

Q. I am now asking whether you have any recollection about whether those prices on bars were the same?

A. No; I would say they were not the same.

Q. But you have no recollection about it one way or the other, have you?

A. Well, I would say that the prices were not the same.

Q. Do you recollect it? Do you have any recollection about the price at all?

A. Oh, yes.

Q. Then, if you have any recollection about the price, did you get quotations from the Tennessee Company and Jones & Laughlin and the Republic at the same time?

A. Approximately the same time there might be a variation of a few days.

Q. Do you remember, in the year 1909, a severe break that occurred in the market price of bars?

A. No; I would not make a statement to that effect, because we were such small buyers that it did not affect us greatly, one way or the other.

Q. The bar portion of your business did not amount to much, even as late as 1909?

A. Or even at this time.

Q. It never has amounted to much?

A. Not very much, no.

Q. So much so that a cut from $1.40 to $1.05 would not attract your attention?

A. It would not make a very great impression in the way of dollars and cents.

Q. And if such a cut occurred in 1909, and a similar cut in 1911, you recollect neither of those cuts?

A. I recall in 1911 that prices were very low on bars. As I remember it, I think they were quoted about $1.10, or $1.15, Pittsburgh. I think our contract with the Jones & Laughlin Steel Company at that time was at $1.10 for bars and $1.15 for shapes.

Q. Take the year 1910; what different companies quoted you on bars?

A. I would say the same companies as mentioned for 1909.

Q. Confining yourself to steel bars; what percentage of your steel bars did you get from the Tennessee Company?

A. That is for 1909, did you say?

Q. No; 1910.

A. About 60 to 65 per cent.

Q. What was your tonnage in 1910 in steel bars?

A. We had practically discontinued the use of iron bars at that time, and have not used them since. We probably purchased between 200 and 250 tons of steel bars.

Q. In 1911 what percentage did you get from the Tennessee Company?

A. Our purchases of steel bars for the last three or four years have averaged about 65 per cent. from the Tennessee Company.

Q. You say the last three or four years?

A. Yes; 1910, 1911, 1912 and 1913.

Q. Take your plain structural materials: In 1905, I suppose, you did not buy——

A. We have not used any plain structural material until the last few years.

Q. Then you have not had any special reason to concern yourself with the quotations on plain structural material prior to the last few years?

A. No; not interested in it particularly.

Q. Say in 1913, what tonnage did you get of plain material?

A. We have used practically a very limited amount. I do not suppose we would use 100 tons a year of plain structural.

Q. About 100 tons for 1913 and about 100 tons for 1912?

A. That is about the proportion.

Q. What company did you get that from?

A. We bought some from Jones & Laughlin and some from the Eastern Steel Company.

Q. Any other companies?

A. None from the Corporation or any other companies.

Q. And all told only 100 tons?

A. That is about it.

Q. What other companies did you get quotations from in 1912?

A. The Lackawanna Steel Company and the Carnegie Steel Company.

Q. And Jones & Laughlin, of course, and what was the other?

A. The Eastern Steel Company.

Q. Do you recall the quotations of the Carnegie Company made at the same time as the other companies on plain structural in 1912?

A. As I remember it, they were a dollar a ton above the Jones & Laughlin Steel Company.

Q. In 1912?

A. Yes.

Q. What was the base price?

MR. REED: The base price of which quotation?

MR. COLTON: Of plain structural, for the Carnegie.

THE WITNESS: As I remember it, it was $1.20 a hundred pounds.

By MR. COLTON:

Q. In 1912?

A. I think that was it. That is my recollection.

Q. What time in 1912?

A. Along in the spring, as I recollect it.

Q. Was not that the spring of 1911 that they made that kind of a quotation?

A. I would not be positive. It might have been 1911 or 1912. I would not be sure which it was

Q. Then you are not sure whether you are speaking of 1911 or 1912 when you answer that question?

A. To the best of my recollection it was 1912, as I recall it.

Q. But as you say you are not absolutely positive about it?

A. No. I would not be positive, without having an opportunity of looking it up.

Q. You would want to look it up on your records?

A. Yes.

Q. In 1913, where did you get your plain structural material?

A. From the Eastern Steel Company and the Jones & Laughlin Steel Company.

Q. And the same companies quoted you as you have named before?

A. I don't recall, now, asking for quotations for prices from the Carnegie Company, because they were so far behind with their rollings that they could not interest us.

Q. Do you remember whether you asked prices from the Lackawanna Company?

A. No, we did not.

Q. You, then, confined yourselves to the two companies—continued your contracts?

A. Yes; those two.

Q. So, for the last year, you did not take any quotations, and, so far as plain material was concerned, it has only been two years that you have been taking any quotations at all?

A. That is it, on plain material.

Q. Now, as to fabricated structural steel: confining yourself to steel, how many tons did you have in 1905, of fabricated?

A. I do not suppose we used over 100 or 200 tons at that time.

Q. In 1906?

A. I could not say positively the amount. It has been gradually increasing year by year.

Q. I know, but would it be about the same?

A. Perhaps there would be some increase.

Q. What would it be?

A. Perhaps 200 tons, or 250 tons.

Q. And in 1907?

A. In the neighborhood of 1,000 tons that year.

Q. And in 1908?

A. I should say 800 to 900 tons; not so much used.

Q. 1909?

A. For 1909, 1910, 1911, 1912 and 1913, our purchases would be in the neighborhood of 1,000 to 1,200 tons a year.

Q. You did not purchase any of your fabricated steel from the Corporation, did you?

A. Counting the Illinois Steel Company as one of the constituent companies of the Corporation, we bought from them for a period of years—I should say five or six years, or six or seven years.

Q. Can you tell me what portion of your fabricated steel you bought from the Illinois Steel Company in 1907?

A. From 1907 until the present time the purchase of fabricated structural steel has been about 20 per cent. from the Corporation companies. That would be the Carnegie and the Illinois Steel.

Q. About 20 per cent. for each year?

A. That would be a fair average, yes; about 20 per cent.

Q. What tonnage did you get from the Corporation in 1913?

A. It would be approximately 250 tons or 300 tons.

Q. Do you have any recollection as to whether it was 250 tons in 1913?

A. That would be in the proportion of 20 per cent.

Q. I know that is the proportion, but I want to know whether you have any recollection about what you got from the Corporation in 1913 or not.

A. I could not say in tons. My investigation has been on total purchases, and it has approximated 20 per cent. from the Corporation companies.

Q. Your investigation? What investigation?

A. Well, from time to time, in summing up the year's business in the purchase of structural steel; we handled that on a jobbing basis.

Q. And you have gotten a considerable portion of your structural steel from such companies as Ryerson, have you not?

A. Quite a percentage in the western territory, yes; I should say it was 80 or 90 per cent, in comparison with the Illinois Steel Company.

Q. You do not know whose steel Ryerson handles, do you?

A. No, I do not. From what their representatives stated, they buy from the companies where they can catch the rollings that they need.

Q. When you say "80 or 90 per cent.," do you mean 80 or 90 per cent. of what you get from the Illinois Steel Company, from Ryerson?

A. No; what I intended to state was that from the central territory, the Chicago district, we would probably buy 90 per cent. from Ryerson, in comparison with the Illinois Steel Company.

Q. What percentage have you bought from Ryerson, as distinguished from manufacturers?

A. I could not state the proportion as to that. I never

made any comparison yearly as to the amount that we bought from the various companies.

Q. Are you the purchasing agent?

A. Yes.

Q. Do you have any other purchasing agent for your company?

A. My partner, Mr. Griscom, buys in my absence, which is not a great amount, though.

MR. COLTON: That is all.

MR. REED: That is all.

CLINTON A. HUNT

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Hunt?

A. Memphis.

Q. What is your occupation?

A. I am president and general manager of the Memphis Steel Construction Company.

Q. How long have you been president of that company?

A. Two years.

Q. How long have you been general manager of it?

A. Five years.

Q. That is, you started with it about 1908?

A. January 1, 1909.

Q. Prior to January 1, 1909, what was your occupation?

A. From October 1, 1903, until December 31, 1908, I was district sales agent at Cincinnati for Worth Brothers Company, of Coatesville, Pennsylvania.

Q. They are manufacturers of plates and——

A. (Interposing) And charcoal iron boiler tubes.

Q. I want to ask you first about your Memphis experience. You buy plain structural shapes for this construction company of yours?

A. Yes, sir.

Q. And you buy plates as well?

A. Yes, sir.

Q. About what tonnage of shapes and plates do you buy annually?

A. Well, shapes and plates and bars, altogether, we use about 3,000 tons per year.

Q. Are you able to separate them into the three items?

A. No; we do not keep our records separated, but I would presume that probably 60 per cent. of the tonnage would be plates.

Q. The balance being shapes and bars?

A. Shapes and bars; yes, sir.

MR. COLTON: Will you ask him—or, I believe he did say plain structural?

THE WITNESS: Yes, all plain.

By MR. REED:

Q. You do your own fabricating?

A. Yes, sir.

Q. Do you buy on a competitive basis?

A. Yes, sir.

Q. Do you ask quotations before you buy?

A. Yes, sir.

Q. Tell us the names of the different steel makers from whom you ask quotations on these materials.

A. The Carnegie Steel Company.

Q. With each name, just specify the products on which you ask them to quote.

A. The Carnegie Steel Company, shapes, plates and bars.

The Illinois Steel Company, the same.

The Tennessee Coal, Iron & Railroad Company, the same, excepting of course beams and channels. The T. C. & I. do not make any beams and channels.

We buy plates and get prices on plates from the Portsmouth Steel Company; from Worth Brothers Company, and also from Jones & Laughlin, on shapes, plates and bars.

From the Cambria Steel Company, shapes, plates and bars.

From the Eastern Steel Company, occasionally, for shapes and bars.

From the Lackawanna Steel Company, shapes.

Q. The Lackawanna on plates too?

A. No, I don't think we ever bought any plates from the Lackawanna; occasionally we bought through some jobbing houses in Chicago, like Scully or Ryerson.

Q. Have you had quotations from the Bethlehem Company?

A. Yes; we have had them from the Bethlehem Company.

Q. On what?

A. On standard shapes and also on their special Bethlehem shapes.

Q. How about the Inland Steel Company in Chicago?

A. We have had quotations from them.

Q. And the Lukens Iron & Steel Company at Coatesville, Pennsylvania?

A. We never asked them for prices; we bought a small amount of plates from the Central Iron & Steel Company of Harrisburg, Pennsylvania.

Q. And the Allegheny Company at Pittsburgh?

A. We have bought from them through jobbers.

Q. And the Carbon Steel Company of Pittsburgh?

A. Yes, we have bought from them.

Q. The last two are on plates, I suppose?

A. Yes.

Q. How do you find the competition among these companies?

A. Oh, very active.

Q. Is there any indication of a price combination among them?

A. No, sir.

Q. Since you have been buying, I mean?

A. No, sir.

Q. Do the prices that are quoted to you vary?

A. Yes.

Q. How long has that been so?

A. That has always been so since I have known anything about the steel business; there has always been more or less variation.

Q. What range of variation do you get?

A. From a dollar to as much as $4 a ton, sometimes.

Q. Is any particular one always high or always low?

A. No, depending on conditions.

Q. There is variation in that?

A. That varies, depending on conditions.

Q. As contrasted with the quotations of its competitors do you find the Steel Corporation's quotations conservative or otherwise?

MR. COLTON: Objected to on the ground that "conservative" does not specify what is meant by it. It is indefinite.

MR. REED: We will have to assume that the court will know what conservative means. Mr. Hunt will you answer the question?

THE WITNESS: Please state the question again.

(The question was repeated by the stenographer.)

THE WITNESS: Well, I would say there is not likely to be such a range of prices with them as there is with some of the other and smaller concerns.

By MR. REED:

Q. By that you mean they do not go so high and do not go so low?

A. That is it.

Q. Now, coming back to your experience as district sales manager in Cincinnati for Worth Brothers Company, you were there from October, 1903, to January 1st, 1909, I think you said?

A. Yes.

Q. You sold both of their products, that is, both plates and charcoal iron boiler tubes?

A. Yes.

Q. Did you have any competition?

A. Yes; every day.

Q. Was that competition severe?

A. Yes, it was.

Q. I believe there was a pool among the plate makers in the early days of your agency there, was there not?

A. Well, I do not know whether there was a pool or not.

Q. Well, if there was a pool up until the end of 1904 did it effectually restrain competition in your district?

MR. COLTON: I object to that on the ground that the witness has already stated that he does not know whether there was a pool or not; he does not know what the arrangements among the different manufacturers were as to minimum price; consequently he cannot possibly tell the prices that were made by the different manufacturers, or say how far the minimum prices were regulated by pooling arrangements.

(The question was repeated by the stenographer.)

THE WITNESS: No, sir; it did not.

By MR. REED:

Q. Did you find that your competitors' prices at times varied from yours in those early days?

A. Yes.

Q. Did you find that your prices were sometimes higher than theirs and sometimes lower?

A. Yes.

Q. And after the 1st of January, 1905, what was the competition that you met?

A. It continued to vary about as it had been; we always had competition of the keenest kind and the prices continued to vary.

Q. If there was any price agreement after the year 1904, was there any evidence of it in the conditions as you found them in your work in Cincinnati?

A. No, sir.

Q. Tell us the names of some of your competitors, Mr. Hunt?

A. The Carnegie Steel Company, Cambria Steel Company, Jones & Laughlin Steel Company, Lackawanna Steel Company and the Lukens Iron & Steel Company; the Illinois Steel Company and the Portsmouth Steel Company.

Q. Enough to keep the salesmen busy, were there?

A. Yes; you met your friends all the time.

MR. REED: You may cross examine.

CROSS EXAMINATION

By Mr. Colton:

Q. Did you receive the price while you were connected with Worth Brothers from your superior officer, on plates?

A. Yes.

Q. You had nothing to do with the arrangement by which they reached that price of the other manufacturers, in so far as they consulted with other manufacturers?

A. I knew nothing whatever about that.

Q. And you do not know what was the minimum price fixed by the pool, the Gary committees and other committees, or the prices that were announced or reached by an understanding by these different committees from time to time?

A. No, sir.

Q. Or upon what express understanding the price was arrived at by the system of announcing until a common price was reached; you do not know what that was, do you?

A. No, sir.

Q. You were only a salesman in that company?

A. That is all.

Q. Your competitors did not tell you what their prices were?

A. No.

Q. And whatever you knew about your competitors' prices was hearsay, was it not?

A. Yes.

Q. You never had any direct knowledge as to competitors' prices, did you?

A. A competitor never came to me and told me what his prices were, but there are ways of finding out what his prices were.

Q. Wasn't it by hearsay?

A. Not exactly, no; I might see a letter he had written quoting a price.

Q. Let us see; how many times were you shown letters?

A. I do not know; I could not tell you that.

Q. You do not know how often you got your information through letters?

A. No, sir.

Q. What other way did you get your information as to competitors' prices?

A. Outside of letters it would be simply hearsay, what one man would tell another.

Q. And you do not know whether the price you were told was the real price or not, or whether you were simply told that for the sake of trying to get you to go lower?

A. If I would see it written in a letter on one of their letterheads, I would regard that as a pretty good indication.

Q. I mean in cases where you were told that by some customer or other; you would not know whether that was a bluff or not, would you?

A. No.

Q. You would have to guess at it?

A. Guess at it or judge, whatever you want to call it.

Q. Were you acquainted with the men connected with your business, or Mr. Worth?

A. Yes, sir.

Q. Is he an honorable man?

A. To the best of my knowledge.

Q. If he made an agreement to maintain a minimum price you think that he would maintain that price?

MR. REED: That is objected to as not cross examination and as incompetent.

MR. COLTON: I am asking for his opinion as to this gentleman and his maintaining his agreement.

MR. REED: I object to his opinion or any evidence on it.

(The question was repeated by the stenographer.)

THE WITNESS: To the best of my judgment, Mr. Worth would do whatever he agreed to do.

Q. And if he said he was going to quote a certain price and told other manufacturers that he was going to quote a certain price, do you think he would quote that price?

MR. REED: Objected to as incompetent.

THE WITNESS: That I do not know; I couldn't answer that.

By Mr. Colton:

Q. Don't you think that he would stand by his word in reference to what he said he was going to do?

Mr. Reed: Objected to as incompetent.

The Witness: I said once that I think he would do what he agrees to do.

By Mr. Colton:

Q. And what he said he would do, he would do that too?

Mr. Reed: Objected to as incompetent.

The Witness: I expect he would.

By Mr. Colton:

Q. Then you have not any reason to know whether he abided by whatever minimum price he may have agreed on with different manufacturers?

A. No, sir; I have no reason to know anything about it.

Q. And you have no reason to know whether he abided by the different minimum prices that he announced at various meetings from time to time?

A. I have no knowledge of that whatever.

Q. What price did you quote on structural material in 1903?

A. I did not sell structurals in 1903.

Q. You were selling only plates in 1903?

A. Yes.

Q. The only material that you were selling during the period of 1903 to 1909 that was manufactured by the Corporation was plates, was it not?

A. Plates; that is all. Plates or light sheets, down to No. 12 gauge.

Q. Well, if No. 12 gauge and up are called—you mean light plates down to No. 12?

A. You can call them light plates.

Q. Plates; taking in the entire range from No. 12 and heavier, then you were selling only plates?

A. Selling only plates, yes.

Q. What were you quoting on plates in 1903?

A. I could not answer that; it is too long ago.

Q. What price was given to you in 1903?

A. I could not tell you; that has passed out of my mind.

Q. What price was the Carnegie Company quoting in 1903?

A. I have no idea.

Q. You have no recollection on that?

A. Not at all.

Q. Take 1904, have you any recollection?

A. No, I would not attempt to quote those prices in the years I was selling for Worth, from memory.

Q. You do not recall the different prices?

A. No, sir.

Q. Or the prices which the other manufacturers quoted?

A. No, they varied of course as conditions warranted. My recollection is that early in 1904 we had lower prices than we had in 1903.

Q. There was a break in there, was there not?

A. Yes; that is my recollection about it now.

Q. There was a break that was common to the different manufacturers?

A. Yes.

Q. And in 1905, do you recall anything about prices that were quoted by your company and the other companies?

A. No, sir.

Q. You cannot give any definite information in regard to 1905?

A. No, sir; I cannot.

Q. In 1906, do you remember anything about the prices that were quoted by the different companies?

A. No.

Q. You cannot give any definite information as to the prices you were quoting in 1906?

A. No.

Q. Take the year 1907.

A. I think in 1907—my best recollection is that plates were sold on the basis of $1.60 Pittsburgh.

Q. And that was the basis on which you were selling as a general rule?

A. Yes.

Q. And the basis on which the manufacturers were generally selling, as a general rule?

A. Yes; that is my impression.

Q. And back of 1907 you cannot give me the prices at which the manufacturers were generally selling?

A. No.

Q. Now, in 1908, can you give me the base price for that year?

A. No, I could not.

Q. In 1909 do you recall a sharp cut in the price of plates?

A. Yes, plates went down considerably in 1909.

Q. The prices went down after Judge Gary announced in an open meeting that he was going to compete with his hands untied?

MR. REED: I object to that, because there is no such evidence in this case.

MR. COLTON: Mr. Worth so testified; that is my best recollection.

By MR. COLTON:

Q. You recall the cut, although you do not remember the cause of the cut?

A. I remember there was a break in the price in 1909.

Q. Do you remember how extensive the cut was?

A. No, I don't recall.

Q. And that break was common to the different manufacturers, was it not?

A. Yes, to the best of my knowledge.

Q. Was there not a wide range of prices from the early part of 1909, say from February along to October, to the best of your recollection?

A. There was a considerable variation there, among the different manufacturers; I should say possibly as much as four dollars a ton—two dollars to four dollars.

Q. Now, coming down to the period since you have been in business—I did not get the date that you started in business for yourself.

A. January 1, 1909.

Q. What tonnage of plain structural material did you buy in 1909?

A. In 1909 I am under the impression that we bought probably 2,000 tons all told, shapes, plates and bars; about half of that would be structurals.

Q. About one-half would be?

A. Well, less than one-half; not over 35 per cent. would be structural.

Q. Thirty-five per cent., approximately, would be structurals?

A. Yes.

Q. That would be beams, channels and angles?

A. Yes; beams, channels and angles.

Q. What different companies quoted you on plain structural in the year 1909?

A. Tennessee Coal, Iron & Railroad Company.

Q. How much did they quote you on angles?

A. You are asking about structural, now, are you?

Q. Yes.

A. They would quote on angles, and we bought considerable that year through the Scully Steel & Iron Company of Chicago. They were jobbers; they had prices as favorable to us as we could purchase direct from the mill.

Q. Anybody else?

A. Cambria.

Q. Now, can you recall what tonnage you bought from manufacturers?

A. No, sir.

Q. You do not know where Scully got his steel, do you?

A. He bought from the Illinois Steel Company and the Carnegie Steel Company—principally from the Illinois.

Q. Most of your steel in 1909 came directly or indirectly from the mills of the Corporation?

A. Yes.

Q. You are simply speaking of plain structural material?

A. Yes; we did not buy any fabricated material at all.

Q. In 1910 is the same thing true?

A. No; after 1909 we bought less and less from Scully, and bought directly from the mills, and our purchases increased

with the Cambria, so far as beams and channels were concerned.

Q. Going back to 1909, do you remember a break in structural in 1909 also?

A. Yes, everything broke all along the line.

Q. And there was a wide variation all along the line in 1909?

A. Yes.

Q. In 1910 what percentage of your plain structural did you get from the Cambria?

A. I suppose we bought maybe 75 per cent. in tonnage from the Cambria.

Q. What percentage did you get from the Tennessee Coal, Iron & Railroad Company?

A. Twenty-five per cent.; we bought practically the balance of our needs, outside of a few odds and ends that we might pick up somewhere else, one place and another.

Q. What percentage of angles?

A. That was angles that we bought from the Tennessee Company.

Q. You bought practically all your angles from the Tennessee Company, and practically all your other structural from the Cambria?

A. Yes; broadly speaking, that was about the way it was divided.

Q. What companies quoted you in 1910 on plain structural?

A. Jones & Laughlin possibly, and I would say that the principal companies quoted, because we asked for prices from the various ones in order to keep well posted on the market from time to time.

Q. And you do not recall the quotations, in 1910?

A. No, I would not attempt to recall.

Q. Don't you recall enough about quotations to know that there was a great deal more uniformity in 1910 than there was in 1909?

A. Well, no, I would not say that I remember that.

Q. You have no recollection on it one way or the other, have you?

A. No, sir.

Q. And you don't recall what the different quotations were in 1910?

A. No, sir.

Q. Nor how many different mills you got quotations from?

A. No, sir.

Q. Nor how many of them were alike and how many were different in 1910?

A. No.

Q. How about 1911?

A. I would say that is true with us practically right along; when we get prices in response to an inquiry we decide what we are going to do with this particular inquiry, or what particular contract we are going to make, and that is dismissed from my mind; I do not remember the prices the next week.

Q. You do not have to recall the prices any more?

A. No, sir.

Q. In 1911, did you know enough about the plain structural business to know that there was a sharp break in prices then also?

A. I remember there was a break, but which year it came in I do not recall; I could not state positively that it was 1911.

Q. Nor what was the extent of the break in structural?

A. No, sir; I couldn't tell you.

Q. About six dollars a ton?

A. I don't recall.

Q. Would your percentage from 1910 to date be about the same as between the Tennessee Company and the Cambria?

A. Yes, excepting that just at the present time we do not happen to be buying much from the Cambria; we are buying more from Jones & Laughlin of Pittsburgh.

Q. Suppose we take it by different years, then. How was it in 1911?

A. The pecentage that I gave you at the beginning would hold about the same, but our tonnage increased. Our tonnage

is about 3,000 tons a year, as against 2,000 tons a year. I mentioned that first.

Q. And it would be about 25 per cent. to the Tennessee Company and 75 per cent. to the Cambria?

A. You are speaking of structural?

Q. Speaking of structural.

A. Yes, I would say that.

Q. In 1912, give the different companies and the percentage, on angles, first.

A. The Tennessee Company would practically get all of our angles; that is, all within the sizes that they make.

Q. And about 100 per cent. of all they make?

A. Yes; that we could use. We bought practically all our requirements within their capacity from them.

Q. And that would be about 25 per cent. of your total plain structural purchases?

A. Yes.

Q. And the rest of it would be divided up between the Cambria and Jones & Laughlin?

A. Well, the Cambria, the Carnegie Steel Company, and occasionally a car from the Illinois Steel Company, and maybe the Eastern Steel Company; principally Cambria, though.

Q. How much from the Carnegie and the Illinois?

A. Well, we bought several carloads from Carnegie in 1912. I do not know—probably 100 tons.

Q. What percentage would that be?

A. What percentage of our total structurals, you mean?

Q. Yes.

A. Probably ten per cent.; no, not ten per cent.; not more than five per cent.

Q. In 1913, of your angles, first; is the same thing true about the Tennessee Company?

A. Yes.

Q. Still constituting about 25 per cent. of your purchases in plain structural?

A. I would say so, yes.

Q. What percentage of your others, in 1913, did you get from the United States Steel Corporation?

A. In 1913 we bought very little other from the United States Steel Corporation.

Q. Not more than five per cent.?

A. Not more than that, if that. Our other purchases have been from the independent concerns.

Q. From Jones & Laughlin in 1913?

A. Yes, and the Portsmouth Steel Company.

Q. Now, give for the years 1909 to 1913, inclusive, the number of tons that you got of structural steel each year, plain structural, including angles.

A. I would say in the neighborhood of 1,200 tons per annum, except possibly the first year it would not be quite so much.

Q. Take your bars for those same years. Will you give the tonnage in bars?

A. The bars would run possibly 200 tons.

Q. Your purchases of bars are almost insignificant, then, as compared with your other purchases?

A. Yes; not very much.

Q. Do you get separate quotations on bars, usually, or do you get them at the same time you get your structural quotations?

A. We usually get it all together; we get prices on three items, shapes, plates and bars.

Q. In 1909 from what companies did you purchase your bars?

A. Principally from the Tennessee Coal, Iron & Railroad Company; we got some through the Scully Steel & Iron Company, which came, I think, from the Illinois Steel Company.

Q. Then practically your entire purchases of bars came from the mills of the Steel Corporation in 1909?

A. Yes.

Q. How about 1910?

A. The same thing would apply.

Q. In 1911?

A. Yes; we bought very few bars outside the Tennessee Coal, Iron & Railroad Company. We bought a few from the Republic one year, I recall.

Q. Would you say in 1912 and 1913 you bought substantially all your bars from the Tennessee Coal, Iron & Railroad Company?

A. Yes.

Q. And you haven't any better recollection of the prices of bars than you have of structural steel?

A. No.

Q. Take plates, and give your tonnage for each of those years, 1909 to 1913, inclusive.

A. I would say in 1909 we probably bought 1,000 tons of plates, and the other years I would say that the tonnage would be about 1,500 tons, approximately.

Q. What company did you get your plates from in 1909?

A. The Tennessee Company, the Portsmouth Steel Company and the Illinois Steel Company.

Q. What percentage did you get from the United States Steel Corporation's subsidiaries in 1909?

A. I do not recall, but the tonnage bought outside of the Steel Corporation would be very small for 1909.

Q. In 1910?

A. Well, I would say in 1910, 1911 and 1912, right along, we bought about, I would say 15 per cent. or maybe 20 per cent. from the United States Steel Corporation.

Q. And this keen competition for your business in plates, so far as it has been keen, has resulted in the Corporation's getting about 85 per cent. of your business?

A. Yes.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. That is in plates?

A. That is in plates.

Q. A very much smaller percentage of the others?

A. Yes.

MR. COLTON: He has specified the percentage in each case.
MR. REED: I am asking Mr. Hunt.
THE WITNESS: Yes.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

JAMES D. MOORE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. You live in Birmingham, do you?
A. Yes, sir.
Q. And you are in the hardware business?
A. Yes, sir.
Q. In the Moore-Hendley Hardware Company, I believe?
A. Yes, sir.
Q. What is your office in that company?
A. President of the company.
Q. How long have you been president?
A. Since its organization.
Q. When was that?
A. The Moore-Hendley Company was organized in 1909.
Q. And prior to that?
A. Prior to that it was the Moore & Hendley Hardware Company, which was organized in 1888. Then, prior to that, we had a partnership which ran back in 1882.
Q. And you have been in the hardware business in Birmingham since 1882, have you?
A. Since February 1, 1882.
Q. For how long were you familiar with the buying of steel materials that was done for your firm or for your company?

A. I was the buyer from the organization in 1882 up to 1907.

Q. Were you familiar with the buying after 1907?

A. I saw the bills, yes, sir. I would read the mail and notice the invoices.

Q. And would you see the quotations that were submitted on important purchases?

A. Yes, sir. I have access to them, of course, all the time.

Q. How long did that continue?

A. Up until the present time.

Q. What kind of steel materials do you buy? Let me ask you as to the different items: Do you buy wire products?

A. Yes, sir.

Q. Including nails?

A. Nails, wire, barbed wire, fencing, poultry netting, screen cloth.

Q. Do you buy sheets?

A. Yes, sir.

Q. Both plain and corrugated?

A. Yes, sir.

Q. Black and galvanized?

A. Yes, sir.

Q. Do you buy pipe?

A. Yes, sir.

Q. Do you buy bars?

A. Yes, sir.

Q. Do you buy shafting?

A. Yes, sir.

Q. What quantity of wire products do you buy annually?

A. I could not be very accurate about that, because it would require looking up my records to see.

Q. I do not expect you to be accurate, but I wish you would give us some approximation, Mr. Moore.

A. In recent years?

Q. Yes.

A. I should say about 500 tons a year, all the wire products combined.

Q. About what percentage of that do you buy from the American Steel & Wire Company?

A. When you combine the whole of it it would be about 45 per cent., roughly, I would say. In some particular items in that we buy less and some more; but the average percentage would be about 45.

Q. Which are the items of which you buy the least from them?

A. We do not buy as much nails and wire as we do fence. The percentage of fence is a larger percentage than it is of nails and wire.

Q. Could you give us approximately the percentage that you get from them in fence and in wire and nails?

A. Of fence we buy practically all our fence from them; say 90 per cent. of it.

Q. How is it with nails and wire?

A. With nails and wire it would not exceed 25 per cent. for the last year or two.

Q. Do you buy on a competitive basis?

A. Yes, sir; of course.

Q. From what companies do you get quotations on wire products?

A. Of nails and plain wire, we buy a good deal from what has been known as the Southern Steel Company——

Q. You did not catch my question, Mr. Moore. I asked what companies submitted quotations on these products?

A. We get quotations from the Atlanta Steel Company, the Southern Steel Company and the Jones & Laughlin Company.

Q. The American Steel & Wire Company of course?

A. The American Steel & Wire Company.

Q. The Pittsburgh Steel Company?

A. The Pittsburgh Steel Company, yes, sir.

Q. Wickwire?

A. Not in nails and wire. They are mostly in poultry netting and screen wire.

Q. Roebling?

A. Not in nails and wire. We handle Roebling products, but not their nails and wire.

Q. The Wright Wire Company?

A. The Wright Wire Company; we buy a good deal from them, yes, sir.

Q. They are rather important in the poultry netting business, are they not?

A. Yes; that is the largest item that we buy from them.

Q. The Gilbert & Bennett Company?

A. No, sir; we do not buy much from Gilbert & Bennett.

Q. Do they give you quotations?

A. Yes; their man comes south and gives us quotations, but we do not buy very much from them.

Q. Do you find that these quotations that you receive on wire products vary?

A. Yes, sir.

Q. How long has that been so?

A. It has been so practically all the time—slight variations; perhaps not a great deal, but enough to turn the course of the trade.

Q. Now, in sheets: What percentage of your sheets do you buy from the Steel Corporation?

A. Taking, say, the last three years, perhaps it would average about thirty per cent. If you will take 1913, it will not average over 10 per cent.

Q. That is, 1913 taken by itself?

A. Taken by itself, yes; it would not average over ten per cent.

Q. About how many tons of sheets do you buy in the course of a year?

A. I think about 350. That would be a rough guess. You understand that none of these figures are intended to be exactly accurate, because they are just estimates.

Q. Tell us the names of some of the companies that quote you on those products.

A. On sheets?

Q. Yes.

A. The Portsmouth Steel Company, Delphos, the Trumbull Steel Company, the Youngstown Sheet & Tube Company. Altogether we bought from nine people—I do not know that I can give their names right now.

Q. It is not necessary to go over all of them again.

A. We bought those products from nine different people.

Q. And you have had quotations from others that you have not bought from?

A. Yes.

Q. Do you find varying quotations there?

A. Yes, sir.

Q. And that has been so right along?

A. Yes, sir. When orders are scarce and the manufacturers are hunting a little more industriously for orders, we find a little more variation. When orders are easily obtained, and everybody has got all the business they need, then there is liable to be less variation in price.

Q. They naturally do not fight for it so hard in those times?

A. They do not fight for it so hard in those times.

Q. About how many tons of pipe and tubes——

A. I should say about 400 tons.

Q. What part of that have you got from the Steel Corporation?

A. About 50 per cent. I would say roughly about half of it.

Q. What competitors of the Steel Corporation have submitted quotations to you?

A. On pipe?

Q. Yes.

A. There is the Youngstown Sheet & Tube Company and the Republic Iron & Steel Company; those are the principal ones we draw from. There may be some of the others too.

Q. Has the La Belle Company quoted you?

A. Yes.

Q. Spang, Chalfant & Company?

A. Yes. Spang, Chalfant & Company several years ago sold a good deal of pipe; not so much recently.

Q. The Mark Manufacturing Company?

A. The Mark Manufacturing Company, yes. We buy some from them.

Q. Quotations on pipe are made by discounts from a fixed list, are they not?

A. Yes.

Q. Do you find that those discounts vary?

A. Yes, sir.

Q. And that has been so right along?

A. That has been so right along; yes, sir.

Q. Since 1901, say?

A. Yes; since 1901. They usually have what is known as a market price, but then there is a deviation made from that, which is not given to the public generally, you know. There is where the difference comes in.

MR. COLTON: What are you speaking of now?

THE WITNESS: The trade papers will quote——

MR. COLTON: I mean what product are you speaking of?

THE WITNESS: Pipe—tubes, as they are sometimes called.

By MR. REED:

Q. Then they make discounts beyond that?

A. Yes.

Q. And negotiations with you?

A. Yes.

Q. In bars, what tonnage do you buy?

A. You mean the quantity?

Q. Yes.

A. I would say between 400 and 500 tons; 500 tons, perhaps.

MR. COLTON: Was that bars?

THE WITNESS: Steel bars.

By MR. REED:

Q. What companies quote to you on them?

A. The Gulf States.

Q. The T. C. & I.?

A. The T. C. & I.

Q. The Knoxville?

A. The Knoxville; yes, sir.

Q. The Knoxville quotes on steel bars as well as iron, does it not?

A. Recently they have. They have been confining their product chiefly to iron up to within the last year.

Q. They have recently gone in the steel business, have they?

A. Yes. It has only been within the last three years that steel bars are the principal product. Formerly we found iron bars more—sold mostly iron, but I do not think any of the rolling mills in this district have rolled iron bars in the last six years, or the last six or seven years.

Q. The demand has changed?

A. The demand has changed.

Q. Within the last few years?

A. Yes; and it has gone from iron bars to steel bars. There has always been a demand in the larger sizes for steel bars, but the smaller bars formerly were mostly iron, and now they are mostly steel.

Q. Then are there some re-rollers down here too?

A. Yes, sir.

Q. Who quote to you on bars?

A. Yes.

Q. How many re-rolling mills are there in Birmingham?

A. Only one that I know of. Well, there were two, but I believe one of them has failed, or had trouble.

Q. Do you find the same variation in quotations on bars?

A. Yes, sir.

Q. And you have for twelve years?

A. Yes, sir; there is always some market difference.

Q. Depending on the eagerness of the different concerns to contract?

A. Yes, sir. As a rule you can find that to be the case.

Q. Do you buy much shafting, Mr. Moore?

A. Yes, sir; we buy a good deal of shafting.

Q. What tonnage?

A. I would say 100 tons or 150 tons of shafting.

Q. I neglected to ask you what percentage of your bars you bought from the Tennessee Company.

A. Five per cent., about.

Q. What percentage of your shafting do you buy from the United States Steel Corporation or any of its subsidiaries?

A. None.

Q. Where do you get most of your shafting, Mr. Moore?

A. We have gotten most of it from the Republic, of late.

Q. What other companies have quoted to you on it?

A. There is a shafting maker in Youngstown, and then the Cumberland Iron & Steel Company, I believe it is.

Q. Have Jones & Laughlin quoted you?

A. Yes; Jones & Laughlin.

Q. And the Union Drawn Steel Company?

A. Yes; that is one.

Q. The Columbia Steel Shafting Company?

A. Yes, sir; the Columbia Steel Shafting Company.

Q. Does the American Steel & Wire Company quote to you on shafting too?

A. Not regularly, because we have not bought from them for a good while; but they will do it any time that we ask them to do so.

Q. Do you find any difference in the conditions with regard to shafting——

A. (Interposing) Yes, sir.

Q. Do you find the difference in quotations that you spoke of?

A. Yes.

Q. Are the conditions the same in shafting——

Mr. Colton: I object to that form of question. It is leading, and leads the witness to compare a group of products that may differ very materially one from another, and asks for a conclusion upon a state of facts extending over a large number of years.

By Mr. Reed:

Q. Are the conditions the same in shafting as in these other steel materials that you spoke of?

A. You mean competitive?

Q. Yes; are the competitive conditions the same?

A. Yes.

Q. Since the United States Steel Corporation was formed

in 1901, has there been competition for your business in each of these different kinds of steel products?

A. I would say yes.

Q. And has that competition continued ever since that time?

A. It has continued all the while, yes.

Q. Has it been active or otherwise?

A. It has been active. It has been more active, I would say, when orders are scarce. There might be a variation in that respect, owing to the condition of the market.

Q. Have you in Birmingham noticed any change, either an increase or a decrease, in the size and importance of the competitors of the Steel Corporation?

A. Yes, sir.

Q. Which have you noticed?

A. Particularly in nails and wire, and in sheet products.

Q. Has there been an increase or a decrease?

A. There has been an increase in the outside competition; a decided increase.

Q. Has there been any time since the Steel Corporation was formed in 1901 when you could not have bought all of your requirements of any of these products from competitors of the Steel Corporation?

A. In the very early formation they perhaps had nearer control of the nails and wire than almost any other line.

Q. I am not speaking of the formation of the American Steel & Wire Company, but of the formation of the United States Steel Corporation, from two or three years later.

A. No; there has never been a time, I feel quite sure, when we could not supply ourselves with all our material outside of the Steel Corporation.

Q. Have you been familiar with the steel business as a purchaser in the south, and particularly in the Birmingham district, since 1907?

A. As a merchant, yes; practically as a merchant would naturally be.

Q. Did you feel in 1907, or have you felt since, or do you feel now, that the purchase of the Tennessee Coal, Iron &

Railroad Company by the United States Steel Corporation was an injury to the consumers of steel products in the south?

MR. COLTON: I object to the witness expressing any opinion except in regard to his own business; he has not been shown to have any knowledge as to the others.

(The question was repeated by the stenographer.)

THE WITNESS: I have not felt so; I have felt that it has been a benefit rather than a disadvantage.

By MR. REED:

Q. In what way has it been a benefit?

A. So far as I have been able to observe, they have not restrained any competition, and they have developed this district very much, and made conditions in that particular line very much better than they were before. I have observed that the independents, as they are sometimes termed, have increased in their percentage of output very decidedly, while the Steel Corporation has increased its percentage; perhaps it has doubled or more than doubled what it was.

Q. Increased its percentage?

MR. COLTON: I object to that.

MR. REED: There can be no sense in letting a witness make a verbal slip and not call attention to it. How can it be possible for both of them to increase their percentage?

MR. COLTON: I do not know how it can be possible; he said they had increased it.

THE WITNESS: Increased their tonnage; that is what I meant, increased their tonnage and decreased their percentage. That is the point I was getting at. While they have increased their tonnage, their percentage has decreased, which shows that the independents have grown more rapidly than they have.

MR. REED: Cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. Did you confine your testimony entirely to the particular products that you had knowledge of as a purchaser?

A. Yes.

Q. You did not intend to speak of any product outside of those you purchased, did you?

A. Only such as I am familiar with in the conduct of my business.

Q. Now, don't you know that the Steel Corporation has very decidedly increased the percentage of bars that are manufactured in this country during the last five years?

A. No, sir; I do not know that.

Q. You don't know a thing about that, do you?

A. I don't know that.

Q. You don't know a thing about it one way or the other, in steel bars, do you?

A. I know perhaps a thing about it.

Q. All right; if you can tell within 25 per cent. of how many steel bars in the United States are manufactured by the United States Steel Corporation, do so.

A. I can not do that.

MR. REED: What justification is there for the statement that it has very much increased its production in steel bars?

MR. COLTON: I think, Mr. Reed, that is correct. Now, I object to your informing the witness at this time; I am taking this up on cross examination. It is my opinion, based on my knowledge of the evidence, and it is a proper question on cross examination in any event.

MR. REED: Have you quite finished?

MR. COLTON: Yes.

MR. REED: I object to counsel making statements of fact which are not only not supported by the record, but are distinctly contradicted by it.

By MR. COLTON:

Q. You have stated that you do not know within 25 per cent.

A. Not particularly steel bars.

Q. I am speaking of steel bars.

A. I did not state whether it had decreased or increased, with reference to steel bars; I was talking with reference to nails and wire, and with reference to sheets.

Q. Do you now know what percentage of sheets in the United States are manufactured by the Steel Corporation?

A. No; I haven't figured it out definitely, the exact percentage.

Q. You haven't any idea about it?

A. I know that there has been an increase, from all records that I read, gathering information from trade papers and statements generally.

Q. The papers and statistics themselves would be far more accurate than any knowledge that you have on that subject, would they not?

A. Yes.

Q. If we have in evidence Swank's Statistics, you would not want to put your opinion against those statistics, would you?

A. Certainly not. As I stated at the outset, mine were general impressions.

Q. Just sort of hearsay and general impressions?

A. General impressions that I have got from the conduct of my business.

Q. And reading statistics?

A. That is the only definiteness that I am supposed to have about it; I have not prepared myself in order to testify, nor looked up statistics with a view of being accurate.

Q. And in general, you have no definite knowledge with reference to that?

A. No further than a merchant would have in buying these products and reading trade papers, and things of that kind, as a merchant would naturally do; and I diligently read trade papers, the best authority I can find on the subject.

Q. Which trade papers do you consider the best authority you can find on the subject?

A. I consider the Iron Age as being one of the leading papers.

Q. The best authority on tonnage and prices, and so forth?

A. And then the Iron Trade Review gives, I think, good information, published in Cleveland.

Q. Those papers you think are the best authority on prices and tonnage and things of that kind?

A. I think they are very good authority for a merchant, and are accepted by him. I do not claim to be a critical judge of those kinds of things, but that is the impression I have.

Q. Take your wire fencing since 1901; what percentage of that have you gotten from the American Steel & Wire Company?

A. Up to three years ago we got practically none of it.

Q. What tonnage of fencing did you use in 1901?

A. I suppose we did not use so much of it then as we do now, but I would estimate about 100 tons.

Q. About 100 tons a year, up to three or four years ago?

A. Yes.

Q. From whom did you get that 100 tons?

A. At one time we bought it all practically from the Pittsburgh Steel Company.

Q. In 1901 do you mean you bought a single ton of wire fencing from the Pittsburgh Steel Company?

A. No; since they were organized. I don't know the date.

Q. You do not know when they were organized?

A. When the Pittsburgh Company was organized?

Q. Yes.

A. I do not know exactly about the date; no, sir, but it was somewhere—it is my memory—about 1902 or 1903, somewhere along there.

Q. In 1901 from what company did you get your fencing?

A. Well, we did not handle very much of it then, in 1901.

Q. You did not handle much of it down to 1907; only about 100 tons?

A. Yes; not a great deal of it.

Q. In 1907 what was your tonnage: still only about 100 tons?

A. About 100 tons to 150 tons.

Q. And in 1908 still only about 100 or 150 tons?

A. Yes; up to three years ago it would not exceed that.

Q. Was not your tonnage very much less in 1908 than it was in 1907?

A. On fence products, I would not know whether it was. Our business generally was off in 1908 considerably, than it was in 1907, but not so much so on fence products.

Q. Three years ago you began purchasing from the American Steel & Wire Company, and the amount of tonnage that you were buying increased, did it not?

A. Increased; yes, sir.

Q. What three years are you speaking of?

A. 1911, 1912 and 1913.

Q. Give your tonnage for each year in wire fencing.

A. I could not do that accurately.

Q. Could you do it approximately?

A. I stated awhile ago—what was it I stated?

Q. Give now what you recall, to the best of your recollection. You do not need to worry about what you stated awhile ago.

A. I think I stated——

Q. (Interposing) I do not care what you stated awhile ago. I want you to give your best recollection now.

A. From 400 tons to 450 tons.

Q. From 400 to 450 tons?

A. That means now—you mean on fencing alone?

Q. That is what I was asking about.

A. I think I stated that as to wire products.

Q. Give your best recollection in regard to fencing.

A. Well, it would not be over—just fencing alone; that would be about 100 to 120 or 125 tons.

Q. 125 tons each year?

A. Yes.

Q. In 1901 where did you get your wire nails?

A. Got that from different people.

Q. What different people?

A. I would not be positive now; I know in a general way back in that period; as to whether it was 1901 or not I would not want to say.

Q. Do you recollect a single person from whom you purchased wire nails in 1901, other than the American Steel & Wire Company?

A. We were purchasing nails along in that period from Norton Iron Works, and at one time from the Salem Wire Nail Company, I recollect, about that period.

Q. What other companies have you in mind for what you call "about that period"?

A. I don't remember now; I haven't looked it up.

Q. The Consolidated Steel & Wire?

A. Yes, we bought a good many from the Consolidated.

Q. And Oliver & Roberts?

A. Oliver & Roberts, yes.

Q. Along about that period?

A. Along in those periods, yes; I would not be definite as to the years.

Q. But it was about 1901, or somewhere along there?

A. I think so.

Q. And you do not know that at that time the Oliver & Roberts Company had been absorbed by the American Steel & Wire Company?

A. I expect I knew it about the time they were absorbed.

Q. But you do not know when they were absorbed, do you?

A. No, sir; I have not charged my memory with exact dates.

Q. And you do not know that the Consolidated Steel & Wire Company was absorbed by the American Steel & Wire Company of New Jersey, do you?

A. Yes.

Q. You do not know when it was absorbed, do you?

A. Not the year; no, sir.

Q. And you did not know that the Salem Wire Company was absorbed?

A. Yes, I knew that.

Q. But you didn't know the year they were absorbed?

A. No, sir; but I bought from them before they went into it; I thought that is what you were getting at.

Q. I said 1901, which is one of the years you testified about.

A. Yes.

Q. As if you knew what year it was.

A. No, I said I did not know what year it was, and I would not testify as to the exact date.

MR. REED: I object to this argument.

THE WITNESS: I told you my memory as to the years.

By Mr. Colton:

Q. Maybe I am mistaken, but as I understood you, you did not claim to have any recollection as to the conditions, and what companies you were buying from in 1901, in wire nails.

A. I stated I did not, and would not be accurate as to years and time.

Q. And the same thing is true of 1902, is it?

A. I have not charged my memory with the particular dates; no, sir.

Q. And you could not tell me what percentage of your nails you were purchasing from subsidiaries of the American Steel & Wire Company in 1901, could you?

A. No, sir; I could not, because I haven't looked it up.

Q. And you do not know what percentage of the entire wire nail production the American Steel & Wire Company controlled in 1901, do you?

A. I do not, except general statements; I do not know.

Q. You do not know what percentage they controlled in 1901?

A. No, sir.

Q. In 1902, you don't know?

A. No, sir.

Q. In 1903, you don't know?

A. No, sir.

Q. In 1904, you don't know, do you?

A. No.

Q. In 1905, you do not know, do you?

A. I do not know any date exactly.

Q. You haven't any idea of the exact percentage of their control for any year, have you?

A. I have some general idea, but I would not know what it was.

Q. You haven't any idea what percentage of the entire wire rod business they took over, have you?

A. No, sir.

Q. You do not know of any wire rod mill——

A. (Interposing) My testimony on that would not be worth anything.

Q. You know in a general way that wire nails are made from wire rods, don't you? Do you know that?

A. I have seen it, but I thought that was a question unnecessary to ask, almost.

Q. I just wanted to know.

A. Yes.

Q. And you do not know whether they got, at the formation, about 90 to 98 per cent. of the entire wire rod production?

MR. REED: Whom do you mean by "they"?

MR. COLTON: The American Steel & Wire Company.

MR. REED: The formation of that?

MR. COLTON: The formation of the American Steel & Wire Company, yes.

THE WITNESS: Repeat the question, please.

(The question was repeated by the stenographer.)

By MR. COLTON:

Q. Do you know whether the American Steel & Wire Company, at its formation, secured about 98 per cent. of the entire wire rod production?

A. I do not know, except, as I say, statements that I heard made.

Q. Your knowledge in regard to that is purely hearsay?

A. Purely hearsay, and what I have read in the trade papers.

Q. That is, through reading matter and other hearsay matter?

A. Yes; not positive knowledge.

Q. And that condition continued down to 1903, as I understand you, as to your knowledge?

A. Yes, all my knowledge is of that kind.

Q. That is true all the way down, is it?

A. All the way down, yes; I haven't made it a point to ferret out and prove these facts that I have seen stated, for the purpose of testifying.

Q. And you haven't any recollection as to the percentage of your business that you were giving to the American Steel & Wire Company for any year prior to 1903, have you?

A. I couldn't tell you without going into my records.

Q. Looking at your books?

A. Looking at my books.

Q. And you do not know what companies quoted you for any of those years, 1901, 1902 and 1903?

A. As I told you, I could not be accurate about the years. I know whom I bought from along in those years, along in the past, but as to the particular year, I would not want to testify.

Q. Now, for what you call "that period," let that period run down; we have had it up for 1901, and you gave the different companies from which you thought you bought in 1901. Suppose you do the same thing for 1902 and 1903.

A. No, in some of those periods we were buying cut nails, and we did not carry anything else but cut nails, and the American Steel & Wire Company went into the wire nail product, and for a long time since I have been in the hardware business, cut nails were the only stock of hardware in this part of the country.

Q. During that period you were not buying wire nails at all?

A. No; in some periods since I have been in the hardware business we were not.

Q. You can not testify which period you were buying cut nails in, can you?

A. There came a period when we carried two stocks.

Q. When was that?

A. The exact year I would not want to say.

Q. Give it to me as near as you can.

A. I would say along about 1890.

Q. Along about 1890?

A. Yes, 1888 or 1890; somewhere along there.

Q. I am speaking about 1902 and 1903; what were you buying then?

A. In 1902 and 1903?

Q. Yes.

A. At that time we were buying wire nails altogether.

Q. You were buying wire nails altogether? From what companies were you buying wire nails during 1902 and 1903,

that you now have any recollection about, if you have any recollection on the subject?

A. 1902 and 1903?

Q. Yes.

A. Well, I don't remember just now; I would have to go back and look at the records to see just whom we did buy from. At that time the Consolidated and the Salem Wire Nail Company had been absorbed by the Steel Corporation, as I understand it; by the American Steel & Wire Company, had they not?

Q. Well, were you getting your nails from them?

A. As I told you, I did not look up the records, and did not come here with all these dates in mind.

Q. You do not know what prices that company was quoting at that time, the American Steel & Wire Company?

A. No, not from memory; no, sir.

Q. You do not know what price any other company was quoting at that time, do you?

A. No, sir; I would not know what anybody was quoting, what any of them were quoting; I would know just about as much what they were quoting as what anybody else was quoting.

Q. Would that be true down to 1907, that your knowledge would be as indefinite as it is for 1902 and 1903, down to 1907?

A. I would not want to testify as to any particular price or any particular date, without going and looking it up.

Q. Or as to what companies were quoting you?

A. I was getting quotations from the principal companies in existence, whatever they were.

Q. Give the first year in which you were getting quotations from any other company than the American Steel & Wire Company, that you can recall.

A. I told you I bought from the Norton Iron Works, a good many.

Q. In what year?

A. I don't remember the particular year; we bought on up to recent years.

Q. Name any other company than the Norton and the American Steel & Wire Company from which you purchased?

A. I bought from some of those companies which you say were absorbed; that is, the Consolidated Nail & Wire Company, the Salem Wire Nail Company. I do not remember now all the people I did buy from.

Q. And you do not remember what the quotations were?

A. No, sir.

Q. Nor, at a given time, how many were alike and how many were different?

A. No.

Q. And that is true of the entire period down to 1907?

A. I know there has been a variation. You could always find a variation, by testing the market among all the makers.

Q. Yes; if you went among all the makers, you could get somebody to come under the market price?

A. Yes, sir.

Q. The market price sometimes changed itself?

A. Sometimes the market price was not a very steady price.

Q. And at other times it was a fairly steady price?

A. A fairly steady price.

Q. And that fairly steady price extended over considerable periods of time, at times?

A. I do not know about that.

Q. Well, several months?

A. Perhaps so.

Q. And this market price you would find quoted in the trade papers?

A. Yes, sir.

Q. And you have studied this market price, as an advantageous thing for you to know in your business?

A. Yes. Usually the trade papers are somewhere near right, but the best evidence was always the direct quotation from the manufacturers to the particular dealer.

Q. Yes, as you have previously stated, in answer to a previous question?

A. Yes. The trade papers, however, usually gave a fair idea of what the market price was; gave you a pretty accurate idea of what the market price was, and specially to a man who was posted in the business of buying, it would be a good

guide as to practically what the market price was, although the trade paper price was rarely ever the lowest price at which a good buyer could buy his goods.

Q. By shopping around you could get under that price from somebody?

A. Yes; from somebody. Somebody that wanted orders bad enough would cut under it.

Q. Especially a good buyer could get that lower price?

A. Yes. I guess you might add that if you want to.

Q. Is not that the fact?

A. Yes.

Q. I don't want to add anything that is not the fact.

A. I agree with you.

Q. Did you notice the Iron Age to quote the price of the leading steel interests in wire nails from time to time? Did you ever hear it quoted that way?

A. Did you ask if I noticed?

Q. Did you notice the Iron Age quoted the price of the leading steel interests?

A. They did not always mention the maker. They would quote the market and state the article.

Q. Did they not frequently mention it as the price of the leading interests in wire nails?

A. My recollection is that there was a heading "wire nails," and then they quoted the price. It would not say who would furnish them.

Q. You do not remember one way or the other, as to whether they did at times specify the price of the leading interest—that the leading interest was quoting so and so?

A. I would not say they never did, but it was not a rule.

Q. You do not mean to say that there was no more variation in the price of sheets than there was in wire nails, do you?

A. I did not make any comparison between the two.

Q. You did not intend to compare the variations, whatever variations there were in wire nails with sheets, then, did you?

A. No, sir; not necessarily. The variations are on all products.

Q. But what I am trying to get at is this: You do not mean to say that there was not a greater variation in sheets than there was in wire nails, do you?

A. You mean a difference in tonnage?

Q. No; a variation in price as between different makers, when there was any variation between the different makers in sheets?

A. I don't know that I get your idea fully.

Q. I will strike that question out and ask another.

You do not mean to say that the variation in price in wire products was about the same as the variation in price was in the sheet products, do you?

A. No, sir; I do not mean to say that.

Q. You did not understand any question on your direct examination to call for that comparison, did you?

A. No, sir. Was there such a question?

Q. My recollection was that there was, but I would not be sure about it.

A. I do not think there was any comparison between sheets and wire products, as to the exact variation being the same.

Q. That is what I thought.

A. No, sir. I did not understand any such question as that.

Q. And there would not be any analogy, either, as to the variation between pipe and——

A. (Interposing) No, sir; pipe was controlled by one sales manager and sheets and wire products by another. They came out of different offices.

Q. You mean, different offices of the Corporation?

A. Yes, sir.

Q. And the variation in price was different for those different products, so far as there was variation?

A. Yes, sir. One was not related to or governed by the other, so far as I know.

Q. And when there was any range in variation, you do not mean to say that the range in variation in sheets was about the same as the range in variation in wire nails, do you?

A. No, sir; I would not say that.

Q. And you do not mean that the range in variation, when there was any variation in wire nails, was about the same as it was in pipe, do you?

A. I did not mean to make any comparison between the two at all.

Q. You did not intend to compare the variation or range of variation in any of these products, in any of your answers?

A. Not pipe and wire, nor sheets and pipe, or wire, or anything of that kind; no, sir.

Q. Or shafting or wire?

A. No, sir.

Q. Or shafting with bars?

A. What I mean to say is that there is variation in any or all of them; that if you shop the market through thoroughly, there is variation; but that the variation in one did not necessarily regulate the variation in the other. If you knew what the variation in wire was, that would not tell you what the variation in sheets was. If you knew what the variation in wire was, that would not tell you what the variation in tubes was, or anything of that kind. I did not mean to say that, because one is not related to the other, and not controlled by the other. It is controlled by the market of each one; and the market for one kind of article might be under different conditions at the same period from the market for another. One might be very firm in the market and another might be variable in the market.

Q. Take the year 1908 and the year 1909; do you recall the variation in prices during those years?

A. No, sir; I am not going to be accurate as to the particular date, in anything like that, because——

Q. You do not mean to say——

MR. REED: What were you going to say when Mr. Colton interrupted you, Mr. Moore?

THE WITNESS: I was going to say that I did not have any of those particular quotations and dates tied up in a way that I could be accurate about them.

By MR. COLTON:

Q. You do not undertake to say that it is not a fact that

during periods of time such as 1908, when the demand was very slight, or at least when the production was only about 50 per cent. of the capacity of the different steel mills, prices were not held more tightly during that period than they were during the period such as 1909, when the production had greatly increased, do you?

A. You mean to ask if the prices were held more tightly?

(By request, the stenographer repeated the question.)

By Mr. Colton:

Q. I wish to ask whether you mean to assert that there were not such periods of time, when, even though the production was only a small part of the capacity of the different companies, nevertheless prices were held more tightly than they were when the mills were producing 70 or 80 per cent. of their capacity?

A. I could not say as to that.

Q. You never were informed as to what extent mills were running, as to whether they were running full, and as a general rule you do not know to what extent they were running full?

A. As a general rule I would have some idea. I know that my information, at least, in 1908, is that the mills were not running full, because there was not the demand for it.

Q. Do you recall a cut in the price of products generally in 1909—the products generally that you were purchasing?

A. Somewhere in that neighborhood. I would not be accurate as to the particular year or date. I recollect periods when prices were cut.

Q. Do you not recollect enough about it to recall that the cut came after the mills had begun to run at a considerably higher rate of their capacity than they were during the year 1908?

A. I recollect at one period when there was a decline in some price and when the demand was not very great—I mean when business was not very flush.

Q. You do not recollect whether the decline came in 1908 or 1909, do you?

A. Do you mean the decline?

Q. Yes.

A. The decline came, the turning point, in the latter part of 1907, and continued on perhaps through 1908.

Q. Then the prices began to go up in the early part of 1909, did they?

A. Well, I am not going to be accurate as to the date.

Q. Have you not got that entirely twisted—is it not a fact, that prices were fairly well maintained during the year 1908, and then, in 1909, there was a decided cut in price in wire products?

A. I would not testify as to that. That might be. I do not say that that is not the case, but I would not testify to it.

Q. Your recollection in reference to prices is very indefinite, is it not?

A. As to dates.

Q. As to any period of time, is it not?

A. As to coupling the particular happening with some particular date, that I am not prepared to do, because, as I said, I have not prepared myself as a witness to study out these points and answer them accurately. I could get that information by going back on the records.

Q. What percentage of your pipe is iron pipe? Any?

A. None now. At one time we sold some, but never a very large percentage, since they began to make steel pipe. At one time it was practically all iron pipe.

Q. From the American Steel & Wire Company you have been purchasing about 45 per cent. for the last how many years, of your wire products?

A. Three years.

Q. And before that you purchased a larger percentage from the American Steel & Wire Company, did you not?

A. I did not go into the percentage in those years.

Q. I know you did not on your direct examination, but I am now asking you for the facts, if you know.

A. I say my memory is not good enough to enable me to give you the percentage in those years.

Q. Don't you know that, as a matter of fact, you did pur-

chase a larger percentage from the American Steel & Wire Company during 1901 than you did during 1913?

A. A larger percentage?

Q. Yes.

A. No; I have not made that comparison. I do not know. It may possibly be true; but I would not testify to it. I would not say that it is not true, nor that it is true, because I have not looked that up to see.

Q. What did you look up?

A. I am going largely on my memory of the last two or three years, where it is fresh.

Q. You are not trying to testify to the period back of that time with any definiteness?

A. No, sir.

Q. What percentage of your bars are iron?

A. Now?

Q. Yes.

A. None, practically. Well, yes, we do supply still some bar iron, but it is growing less every day. More steel bars are being used every day. I don't know exactly what the percentage is now, but a small percentage of iron.

Q. What percentage did you buy from the Tennessee Company in 1910 of steel bars?

A. For 1910? I do not recollect.

Q. In 1911?

A. Well, in 1911, 1912 and 1913, the last two or three years, about five per cent.

Q. What are your sheets? Are they iron sheets?

A. Steel sheets.

Q. Are you sure they are steel sheets?

A. Only as the people we buy them from tell us. That is all I know about it.

Q. They all tell you they are steel sheets?

A. Yes, sir.

Q. What tonnage did you get from the American Sheet & Tin Plate Company in 1910?

A. I could not say for that particular year.

Q. For 1911?

A. On an average——

Q. No; for 1911. I do not want an average. I want to know what you got for 1911, if you have any recollection about it.

A. I could not answer that exactly.

Q. In 1912: do you have any recollection about that year? What percentage did you get from the American Sheet & Tin Plate Company?

A. My memory is about 30 per cent.

Q. What tonnage?

A. Between 400 tons and 500 tons.

Q. What kind of sheets?

A. Black sheets and galvanized sheets.

Q. Between 400 and 500 tons you got from the American Sheet & Tin Plate Company?

A. No. I mean our product altogether.

Q. I asked about the American Sheet & Tin Plate Company.

A. I say about 30 per cent.

Q. I would like to know what your tonnage was, if you have any recollection about your tonnage?

A. I gave you the tonnage.

Q. What was it from the American Sheet & Tin Plate Company?

A. Take 30 per cent. of——

Q. No. I want to know whether you have any recollection about what tonnage you got from them?

A. Not accurately. I have not figured it up.

Q. You might be ten or fifteen per cent. off?

A. Yes; I might be.

Q. Or twenty or twenty-five per cent. off?

A. I don't think so.

Q. But you would not be sure?

A. No. I am sure enough to know that there would not be that much variation.

Q. You do not think you could get as far wrong as 25 per cent.?

A. I don't think so, no. I do not intend to be accurate, however, as I said when I started off, in what I am testifying. I am speaking in a general way, so as to give you just some idea.

Q. Do you know how long the shafting pool was continued?

A. I did not know they had a shafting pool.

Q. I believe you said you did not intend to compare the relative amount of competition in any of these products with any other products? Is that correct?

A. That was not exactly the——

Q. Well, do you——

MR. REED: One moment, Mr. Colton. Let him finish.

THE WITNESS: What you asked me about was the relative variation.

By MR. COLTON:

Q. Very well, go ahead.

A. What was your last question?

Q. Did you intend to compare the relative competition in shafting with the competition in wire nails, for example?

A. I say there has been competition in all these articles.

Q. But do you intend to make any comparison between shafting and wire nails, in respect to competition?

A. No, sir; I am not making any comparison. I just say there is competition. I am not making any comparison about them at all, as to whether the competition was closer in one or less close in another. I do not say——

Q. You would not attempt to make any such comparison as to any of these different——

MR. REED: Let him finish one answer, please, Mr. Colton.

THE WITNESS: There is competition in all of them, but I am not making any comparison as to competition in one as against competition in the other.

MR. COLTON: That is all.

MR. REED: That is all.

F. RUSH SIMPSON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. You live in Birmingham, do you?

A. Yes, sir.

Q. You are with the Wimberly & Thomas Hardware Company?

A. Yes, sir.

Q. In what capacity?

A. Buyer.

Q. What kind of steel materials do you buy for that company?

A. Practically 80 per cent. of our consumption, all heavy stuff and shelf stuff.

Q. That is, 80 per cent. of all the materials your company uses?

A. Yes, sir.

Q. And of what varieties does that 80 per cent. consist? Do you buy wire?

A. Yes, sir.

Q. About what tonnage annually in wire products?

A. That includes nails and barbed wire and plain wire and smooth wire?

Q. All wire products, yes.

A. I should say about 2,000 tons in a year's time.

Q. And about what percentage of that do you get from the American Steel & Wire Company?

A. Well, at present I should about half. It has varied in years.

Q. Has the percentage which you get from the American Steel & Wire Company tended to increase or to decrease?

A. That is a hard question to answer. It goes by spurts. It depends upon conditions.

Q. Do you buy on a competitive basis?

A. On a competitive basis; yes, sir.

Q. What companies quote to you on wire products?

A. The principal quotations I get now are from the Gulf States Steel Company, the Atlanta Steel Company, the Pittsburgh Steel Company, the Youngstown—I cannot remember the balance of that name—Jones & Laughlin; and there is the Norton Iron & Steel Company—I do not know whether they are in business now or not. I have not heard from them lately. Also the Kelly Iron & Steel Company; that is about all I can remember now.

Q. I neglected to ask you how long you had been buyer for the Wimberly & Thomas Company.

A. Approximately twelve years.

Q. Do the quotations that you get on wire products from these different companies vary or are they all alike?

A. They invariably vary.

Q. How long has that been so?

A. Pretty nearly all the time. There is always somebody lower than the others.

MR. COLTON: What is that?

THE WITNESS: There is always somebody lower than the others; more than one lower, probably.

By MR. REED:

Q. Do you buy sheets?

A. Yes.

Q. Both plain and corrugated sheets?

A. Yes.

Q. Both black and galvanized sheets?

A. Yes.

Q. And what tonnage of all kinds of sheets do you buy in the course of the year?

A. In these flat sheets, which are called the lighter gauges, which is the only thing I carry, I will use probably in a year's time, about 500 tons.

Q. From what companies do you get quotations on sheets?

A. From the American Rolling Mill Company, from Follansbee Brothers, the Southern Sheet & Tin Plate Company.

Q. Where are they?

A. At Ashland, Kentucky; from Berger Brothers, the Deforest Steel & Iron Company, and there are some more of them. There are some others, but I don't remember them now.

Q. The Parkersburg Company?

A. Yes; the Parkersburg Company.

Q. The Brier Hill?

A. Yes.

Q. The Youngstown Sheet & Tube Company?

A. Yes.

Q. The Youngstown Iron & Steel?

A. No.

Q. Fannin & McCullough?

A. Yes.

Q. Did you say that you bought any from the Youngstown Iron & Steel Company?

A. No.

Q. Did you get quotations from them?

A. We have had, yes.

Q. They used to be called the Youngstown Iron & Steel Roofing Company?

A. Yes.

Q. Do you get quotations from the Newport Rolling Mill Company?

A. Not recently; we have not had in years.

Q. What percentage of the sheets that you have bought have you bought from the American Sheet & Tin Plate Company?

A. None.

Q. How long have you been buying sheets?

A. About three years; two years and a half or three years, approximately.

Q. And your answer covers the whole period during which you have been buying sheets?

A. Well, for that two and a half or three years.

Q. Have you had quotations from the American Sheet & Tin Plate Company?

A. Not that I know of; I haven't seen any.

Q. Have you asked them for quotations?

A. No, sir.

Q. Is there competition among these different sheet makers that you have named?

A. Yes.

Q. Is it keen or otherwise?

A. Well, it is rather active at times; there is variation in prices from the different quotations.

Q. You find their quotations vary?

A. Yes.

Q. And have, during the three years you have been buying?

A. Right along.

Q. Do you buy bars, too?

A. Mercantile—merchant bars.

Q. Are they both iron and steel?

A. Yes.

Q. What tonnage of steel bars do you buy annually?

A. I should say about 500 tons, approximately, combined.

Q. How long have you been buying steel bars?

A. We have always carried steel bars, ever since I have been buying; that is, a small amount to start with. It has grown up some.

Q. Do you get quotations on them from different manufacturers?

A. Yes.

Q. Name some of them, please.

A. The Knoxville Iron Company.

MR. COLTON: Are you sticking to steel?

THE WITNESS: And the Gulf States Steel Company; the Southern Iron & Commission Company, of Birmingham, and the Atlanta Steel Company, on steel bars.

By MR. REED:

Q. And the Tennessee?

A. Yes, the Tennessee Company.

Q. The Republic?

A. I have had them, but not recently.

Q. Jones & Laughlin?

A. Very seldom.

Q. What percentage of your purchases of steel bars in the last four or five years have you bought from the Steel Corporation or its subsidiaries?

A. The Tennessee Coal, Iron & Railroad Company, at Bessemer; I have bought very little there. It would be a hard matter for me to approximate that, because the purchases have been so limited.

Q. Have you bought as much as ten per cent. of your bar purchases from them?

A. I do not think that would miss it far; ten to fifteen per cent.

Q. Do you find that the quotations vary in bars, too, Mr. Simpson?

MR. COLTON: Speaking as to the last three or four years?

MR. REED: Speaking of the present. If you will give me time, I will get it all out; if I do not, you can get it out.

By MR. REED:

Q. How long has it been so, that you have found quotations varying on bars?

A. Always had variations, since I have been buying goods, practically speaking; we very seldom find them all alike.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. Now, in steel bars, prior to the acquisition of the Tennessee Company by the United States Steel Corporation, you were quoted by the Illinois Steel Company, the Carnegie Steel Company and the Tennessee Company, were you not?

A. What are the other names; the Carnegie and the Tennessee Company?

Q. Yes; on bars, steel bars.

A. Since when?

Q. Prior to the acquisition of the Tennessee Coal, Iron & Railroad Company by the United States Steel Corporation, if you know when that was.

A. Prior to the acquisition? When did that start?

Q. In 1907.

A. I bought some few bars from the Tennessee Company since 1907; not from the Carnegie.

Q. That is not what I asked you; I asked you whether you were quoted by the Tennessee Company and the Illinois Steel Company and the Carnegie Steel Company on bars prior to November, 1907.

A. I could not answer that question; I don't think I was.

Q. Do you know when you were first quoted by the Illinois Steel Company on bars at any time?

A. We never get any quotations from them now on bars.

Q. You say "now," but were you ever quoted by them on bars?

A. I couldn't say.

Q. Have you ever been?

A. I would not say positively that we have, and I would not say positively that we have not.

Q. Don't you know about the Carnegie, either, on bars?

A. I would say no on that.

Q. You haven't much memory about the question of purchases back of three or four years, have you?

A. I would prefer not to go back into the early days of my purchases, which began about 1902, you might say. I might be able to answer some questions; if I could, I don't mind your asking them, but I might not be able to answer them. I do not believe you could find much, because I would not have much about that time.

Q. You would not have much, if any, information as to the period down to 1907 or 1908, with respect to any of these products?

A. I could answer a few questions, but I do not think it would be of any service; I would be glad to answer them for you, however.

Q. Could you give me any idea what percentage of your wire products you got from the American Steel & Wire Company in 1901?

A. I was not buying then, and I could not answer that.

Q. 1902?

A. About 1902, when I started doing the buying, we were buying a good deal of stuff from the American Steel & Wire Company at that time.

Q. A very large percentage, was it not?

A. Yes.

Q. About 75 or 80 per cent.?

A. I would not say, because I haven't any record on it, but the percentage was in favor of the American Steel & Wire Company then.

Q. By "in favor" you mean it was decidedly more than the majority at that time?

A. I would not say how much majority, because I did not keep any record of it.

Q. Your recollection continues about that same way down to the present time, except that at the present time you think it is about 50 per cent.?

A. Yes; I know what it is now.

Q. How long do you know it to be about 50 per cent.?

A. For the last five or six years.

Q. You stuck at about even 50 for the last five or six years?

A. To the best of my recollection, without taking any figures or data on the subject.

Q. For how many years do you think you have any recollection as to prices and variations in prices on steel bars?

A. Back as far as I can remember, there has been a little variation.

Q. And in steel bars, by a little variation, you could get some one fellow, or some one or two, that would be under the rest?

A. There would always be some one low.

Q. Some one that you could get under the others?

A. Yes.

Q. And you would shop around until you got one?

A. Sometimes it would not be shopping around; sometimes it was brought in.

Q. Sometimes you would shop for it, and sometimes it was unnecessary?

A. Sometimes it was unnecessary to shop for it.
Q. Sometimes they were willing to let you have it?
A. Yes.

(Whereupon an adjournment was taken until Monday, January 12, 1914, at 10:30 o'clock a. m.)

ONE HUNDRED AND THIRTY-NINTH DAY.

FEDERAL BUILDING,
Birmingham, Alabama.

Monday, January 12, 1914.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the Defendants, MR. REED.

WALKER L. WELLFORD

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Memphis, Tennessee.

Q. How long have you lived there?

A. I have lived there, with the exception of six years in New Orleans, all my life.

Q. What is your occupation?

A. Secretary and treasurer of the Chickasaw Cooperage Company.

Q. How long have you been secretary and treasurer of that company?

A. About seventeen years. Prior to that time I had charge of the New Orleans branch until my father died, who was secretary, and I succeeded him.

Q. You have been connected with the company since the early nineties, have you?

A. Yes.

Q. In what business is the Chickasaw Cooperage Company engaged?

A. Manufacturers of barrels.

Q. Do you manufacture or do you buy the barrel hoops that you use?

A. We buy the hoops. We use steel hoops.

Q. About how many tons of steel hoops do you buy annually?

A. Well, it has ranged from about 2,500 tons to 4,500 tons annually.

Q. You must be one of the largest buyers of hoops in the country, then?

A. Yes, we are.

Q. Do you buy on a competitive basis?

A. Well, I guess we do; we buy all of our hoops from the Sharon Steel Hoop Company.

Q. Do you get quotations from other manufacturers?

A. Continually.

Q. Do other manufacturers solicit your business?

A. Yes.

Q. Give us the names of some competitors of the Sharon Steel Hoop Company who seek your business.

A. Well, the Carnegie Steel Company, the Pittsburgh Steel Company, and the Alton Steel Company.

Q. That is a new concern?

A. That is a new concern, about a year or a year and a half old; and the Atlanta Steel Company, they are very active in soliciting our business, and there is a new concern —Mr. Connors—I think it is the Gulf—well, I don't exactly remember the name of it—the Gulf Manufacturing Company, I believe.

Q. Is it the Gulf States Steel Company?

A. Yes, the Gulf States Steel Company.

Q. Does the West Leechburg Steel Company solicit your business?

A. Yes; I should have stated the West Leechburg Steel Company also.

Q. How about the Connors-Weyman Steel Company, of which Mr. Connors is president?

A. We were solicited recently, I should say in the last four months, by them.

Q. They are located here in Birmingham, are they?

A. I think so; I thought they were in Anniston, but maybe not; they may be in Birmingham.

Q. And you say you have bought all your requirements, however, from the Sharon Steel Hoop Company?

A. Yes, except an occasional car from Atlanta, when I fall down in giving my specifications, and we have to have a car right quick.

Q. How long have you been buying all your requirements from the Sharon Steel Hoop Company?

A. Ever since they have been in business; about eleven years, I think.

Q. Is the competition keen or otherwise among these hoop manufacturers?

MR. COLTON: Just a moment. I object to that on the ground that the witness is incompetent to answer that question.

THE WITNESS: I think the competition is keen, judging from the efforts they make to get the business.

By MR. REED:

Q. And in a general way what are your reasons for adhering as closely as you do to the Sharon Steel Hoop Company?

A. Well, friendship had a great deal to do with it. Morris Buckman, who organized the Sharon Steel Hoop Company, and who was, prior to that time, the general manager of sales for the American Steel Hoop Company, which was what I believe they call the trust——

Q. Some people who do not know the facts call it the trust, I believe?

MR. COLTON: Just a moment. I object to that as leading.

MR. REED: What is leading about that, Mr. Colton?

MR. COLTON: Well, it is misleading, and suggestive to the witness what kind of answer you want.

MR. REED: I would ask counsel for the Government to

take one position or the other, and state whether it is leading or misleading.

MR. COLTON: It is misleading to the witness to state something that may be erroneous, and it is suggestive and improper in form.

MR. REED: Now, will you tell us how far Mr. Wellford had gone before the storm broke?

MR. COLTON: Is that a remark for the record? Then I object to it as improper.

MR. REED: There are some people who do not know what the trust is, Mr. Colton.

MR. COLTON: Then I object on the ground that it is improper for counsel to make statements of that kind to the witness.

MR. REED: Will you read how far Mr. Wellford had gone?

(The question and answer under discussion were repeated by the stenographer.)

By MR. REED:

Q. I think I interrupted you, Mr. Wellford.

A. Morris Buckman was a great friend of mine, and I gave him the first order when the Sharon Steel Hoop Company was organized, and I continued to buy from him through the fact that they made what I thought to be the best hoop, and because I thought it was well to keep up competition in the steel business.

Q. Well, now, how about the prices that the Sharon Steel Hoop Company quoted to you?

A. I believe we have gotten the lowest prices that were prevalent; in fact, I am sure of it.

Q. Do the quotations that are made to you by these different manufacturers vary, or are they alike?

A. They vary considerably.

Q. How long has that been so?

A. Oh, for probably ten years.

Q. Have you observed any indication of a combination among the makers of steel hoops to fix the prices?

A. I have not.

CROSS EXAMINATION

By MR. COLTON:

Q. You have bought exclusively, as I understand, from the Sharon Hoop Company on account of friendship and on account of the further fact that you thought it well to support an independent company. Is that correct?

A. That is true.

Q. Are you or not aware that the United States Steel Corporation, through its subsidiaries, has controlled about 70 per cent. of the production in steel hoops?

A. No; I am not aware——

MR. REED: One moment. I have an objection to make.

MR. COLTON: The witness has already answered.

MR. REED: He had not finished his answer. Let him finish.

THE WITNESS: On the contrary, I understand that the independent mills handled at least 60 per cent.

MR. COLTON: You have waited until his answer was finished, and I will now ask him: What information have you in reference to the tonnage handled by the independent mills in hoops?

THE WITNESS: From statements that they have made from time to time.

By MR. COLTON:

Q. Purely hearsay, is it not?

A. And from the fact that I have a pretty good knowledge of who the other cooperage manufacturers buy from.

Q. Can you state the capacity of any mill?

A. You mean the capacity of a steel mill?

Q. Yes.

A. I don't know that I can. I have heard them, but I forget detailed figures of that kind.

Q. You have no personal knowledge of the capacity of any of the different mills of the hoop company, have you?

A. No, sir; I have not.

Q. Do you know which are those of the American Hoop Company and which the mills of the Carnegie Steel Company?

A. If I understand correctly, all the steel hoop mills are the property of the Carnegie Steel Company.

Q. Do you know when they were combined in the Carnegie Steel Company?

A. No, I do not know——

Q. And you know, do you not——

MR. REED: One moment. Let him finish.

THE WITNESS: I do not know exactly when it was done, but it was several years ago.

By MR. COLTON:

Q. Are you familiar with Swank's statistics?

A. No, I am not.

Q. Do you know to what association the statistics of the various steel mills are reported by the manufacturers themselves?

A. I do not know that I could call the name of it. I know there is an association, and I believe they call it the American Steel & Iron Institute.

Q. The American Steel & Iron Institute?

A. I think that is it.

Q. And the figures of that association are as accurate as any you know of, are they not?

A. I would suppose so.

Q. And you would not put your judgment up against the figures of that association, would you?

A. No, sir; I would not.

Q. You would accept those as superior to any knowledge that you have on the subject, would you not?

A. I suppose that they know more about it than I do.

Q. They get the reports direct from the manufacturers?

A. I guess so.

Q. And you don't know what their report is in reference to——

A. No, I do not.

Q. You do not know that their report in reference to hoops and bands and cotton ties is that about 72 per cent. of the production of the United States is controlled by the United States Steel Corporation?

MR. REED: Objected to for the reason that there is no such evidence in this case, and for the further reason that it affirmatively appears that, lumping hoops and bands and cotton ties, the percentage of the Steel Corporation is much less than that stated by counsel for the Government.

THE WITNESS: I was not thinking of cotton ties, because very few of the independent mills, as I understand it, manufacture cotton ties. Some of them manufacture some, but the Sharon makes very few cotton ties.

By MR. COLTON:

Q. That is, as I understand you, the lumping of those things might tend to increase the Corporation's percentage, for aught you know?

A. I think it probably would, because there is no money in cotton ties. It is just a filler.

Q. You say there is no money in cotton ties?

A. No, sir; there is no money in cotton ties.

Q. Don't you know that, as a matter of fact, there was enough money in cotton ties for the American Steel Hoop Company to pay the Illinois Steel Company $150,000 a year to keep out of the business, before those companies went into the United States Steel Corporation?

A. But I am talking about now.

Q. I am asking you whether that is a fact.

A. I know that it was reported something of that kind; but cotton ties years ago sold for a very much higher price and the cost of manufacture was very much less than it is now.

Q. Do you know how much it costs the Steel Corporation to manufacture cotton ties?

A. No, I do not, naturally. They hardly know themselves, I suppose.

Q. You don't know anything about it, do you?

A. I know a good deal about it, from talking with the various manufacturers, and their telling me.

Q. What do you know about the cost of manufacturing cotton ties to the Steel Corporation, as to what it costs them?

A. I don't know the details of the manufacture of steel,

but I have talked with the various steel manufacturers from time to time, and we have talked costs, and I am informed by several of them that there is no money in the cotton tie business.

Q. But, aside from that hearsay statement, you have no information yourself on the subject?

A. Certainly not. I am not in the steel business and naturally could not know the details of the manufacture of steel.

Q. You have no way of checking up the amount of money that the Corporation makes on its cotton tie business?

A. No, sir; I have not; but I do not believe they make much on it.

Q. Your belief is not based on any knowledge of your own, is it?

A. My belief is simply based on statements made to me by various makers.

Q. What manufacturer ever gave you any detailed statement of cost in respect to cotton ties?

A. I have had detailed statements from the Sharon Steel Hoop Company, and I have had detailed statements from——

Q. What was that detailed statement?

A. I cannot remember the figures, because the details of the matter are something that I could not remember. I have too many details of my own to remember, to try to keep those things in my mind, and I simply retain the facts, the results, and not——

Q. Is it not a fact——

MR. REED: One moment, Mr. Colton. Please let him finish some of his answers.

THE WITNESS: I merely retain the results, and not the details on which the results are founded. The Atlanta Steel Company, Mr. Rose has told me, have found that there was practically nothing in the cotton tie business.

By MR. COLTON:

Q. You know that the Atlanta Steel Company has to get its steel at a great distance, does it not?

A. No, I do not know that. I think they make their steel right at Atlanta.

Q. Do you know where they get their raw material to make the steel?

A. It can be gotten from Birmingham, which is not a great distance.

Q. It is a very considerable distance, is it not?

A. I do not think so. I would not call a three hours' ride a considerable distance.

Q. Do they make any pig iron?

A. No; they do not make pig iron; but as far as that is concerned, the Sharon Steel Hoop Company do not make pig iron, and they have to get their iron from up on Lake Superior.

Q. It is a very much higher grade ore. Don't you know that?

A. I don't know that it is. There is some ore down here which is too pure to be used by itself, and has to be mixed with other ore.

Q. Birmingham ores, you mean?

A. There are some ores in this district which are too rich to be used for some purposes; the iron is too pure. I am informed that that is a fact.

Q. You are informed that the Birmingham ores, many of them are superior to the Lake Superior ores?

A. Or just as good.

Q. But you don't have any knowledge about ore, any more than you have the production of steel, do you?

A. No; I am not a chemist.

Q. This is just simply hearsay that you are giving?

A. Everything is more or less hearsay, because no man can know everything of his own knowledge.

Q. Yes. What you know of your own knowledge is worth something?

A. I don't know whether it is or not. Some things that I know of my own knowledge are not worth very much to me.

Q. You think what you know by hearsay is worth more?

A. Some of it is, very much more.

Q. And one of those things would be that the ore down here is superior to the Lake Superior ore on a general average?

A. That would be of no benefit to me, but it is very pleasant to know some things.

Q. You would not undertake to say, as a matter of fact, whether the ore that they use from the Lake Superior district averages over 50, and the ore down here is under 38? You would not make any statement about that?

A. I don't know those details, but after the iron is extracted, the quality of the iron is what they are after, in the end.

Q. The iron manufactured in this district is superior to that of other districts?

A. I say some of the ore in this district, I am informed, is very pure, and in fact too pure to use for some purposes, and has to be mixed with other ore. It is the same thing in copper. The Lake Superior copper is too pure to be used for some purposes, and they have to mix it with alloys in order to use it. They make practically all of the copper wire of the Lake Superior copper.

Q. You don't know what percentage of this ore down here is too pure, and has to be mixed with other ore?

A. No, I do not.

Q. And you do not know what it costs the Atlanta Steel Company per ton to manufacture steel, do you?

A. No, I do not. I do not suppose it would cost them very much more than it would anyone else.

Q. Although they have to buy their pig iron?

A. Even if they have to buy their pig iron.

Q. And you don't know anything about it, do you?

A. I do not know anything about it from personal knowledge, but, as a matter of fact, the Atlanta Steel Company has been operating for a number of years, and seems to be prosperous, and that fact, itself, would prove that they were able to get along.

Q. Do you know how much tonnage they have turned out?

A. No, I do not. It is not as much as the United States Steel Corporation, however.

Q. It is not one-thousandth part of the production of the Corporation, is it?

A. I am not going into percentages. I could not remember.

Q. You could not say whether it was one-thousandth part of it or not?

A. I do not suppose the Steel Corporation is afraid of the Atlanta Company breaking up its business.

Q. Well, I suppose not. Did you know that the Steel Corporation manufactured, for the year 1912, about 17,000,000 tons of ingots?

A. Oh, I know they manufactured an enormous quantity; in fact, it is too large for you to grasp; it is an enormous big organization.

Q. Now, your relations with the Sharon Steel Hoop Company have been generally known to the trade, haven't they?

A. Yes; that is, they know that I bought from the Sharon Steel Hoop Company.

Q. Regularly?

A. Yes.

Q. What is the first year that you now recall that you were solicited by the Atlanta Steel Company in hoops?

A. I could not say; it seems to me it is about six or seven years ago.

Q. What size hoops do they solicit you on?

A. They solicited on all sizes of hoops that I use. The widest hoop that I use is two inches and the narrowest is one and one-eighth inches, and the heaviest gauge I use is No. 16, and the lightest is No. 19.

Q. You did not submit any proposition of tonnage, did you?

A. I told them what I used; in fact, that is generally known, about the tonnage we use.

Q. I did not ask you if it was generally known.

MR. REED: You started by asking whether it was generally known.

MR. COLTON: No, I did not; I asked him whether they submitted any specific tonnage on which to bid.

THE WITNESS: I told them about what tonnage we used in a year.

By MR. COLTON:

Q. Did you ask them to make a bid on the tonnage that you used in a year?

A. I did, and they bid.

Q. The first year did you ask that?

A. Yes, I asked that the first year; every year since the first year they have been after it.

Q. The first year did you ask them?

A. Yes, I suppose I did.

Q. You say you suppose you did?

A. I think I did.

Q. You do not remember, do you?

A. I do not remember whether it was the first year or the second year, or the first time I saw them or the fifth time I saw them.

Q. You don't remember when it was, do you?

A. I don't remember when it was; it was four or five or six years ago.

Q. And you do not remember how many times you submitted any definite tonnage for them to bid on?

A. No, I do not. Mr. Rose has been in my office I expect a dozen times, and there are hundreds of people coming in there, and I keep no record of the times they call or when they call.

Q. And you only gave him an occasional car when you fell down on your specifications?

A. Yes, and I paid him a higher price for the hoops than I was paying on my contract.

Q. You paid him a higher price than you did to the company to whom you were giving your entire business?

A. Yes.

Q. Did he quote you on your entire business the first time?

A. Yes, he has made me quotations from time to time——

Q. (Interposing) Do you recall what price he quoted to you the first time?

MR. REED: Let him finish the answer. Read the answer up to the place he was interrupted.

(The answer was repeated by the stenographer.)

THE WITNESS: (Continuing) And those quotations have been different, because there is a fluctuation in the price of hoops continually. Frequently it is from month to month, and sometimes in the same month there will be a different price, and it is up and down, and Mr. Rose has made me different quotations, but I could not tell you what was the price of hoops in any month, hardly, without going back to the records, because I cannot keep those figures in my mind. I have too many figures to keep in my mind.

By MR. COLTON:

Q. You do not mean to say that the price of hoops has not continued for a month or more?

A. Oh, the prices have continued, but there has been a variation, and it would be impossible for me to tell what they are at a particular time. There is no interest for me to know what hoops were five years ago, and for that reason I do not try to keep those things in my mind.

Q. As I understand it, they vary during a single month, and at times they continue for several months?

A. Yes; hoops, right now, are very low; they have been going down for the last three months considerably, the business has fallen off, and the mills are largely idle; that is, they laid off a great many men, and they are hunting business, and that naturally brings down the price, just as all prices in this country are depressed now on account of the lack of business.

Q. You are about as well informed about other prices, I suppose, as you are about ore?

A. Just about in the same way; I get my information from others, because I am in only one business, and naturally have to get my information from other sources.

Q. Do you know anything about how the prices ranged during the year 1909?

A. No, I could not tell you how the prices ranged in any year without reference to records.

Q. You make your contracts annually, don't you?

A. Usually for a period of six months.

Q. After you have made your contract you have got your requirements taken care of, haven't you?

A. We have got our requirements taken care of, and guaranteed against decline.

Q. And you have relations established with one company, have you not?

A. Yes.

Q. So that that makes you less interested than you would otherwise be in the prices of hoops?

A. No, because if the price goes down, I get the benefit of it, and if the price goes up, I am that much in.

Q. If the price goes down—to what do you look to see whether the price has gone down?

A. I get prices from other concerns all the time that are continually making prices, and I can keep up with the market in that way; and I read the trade papers, and discuss matters with my competitors, and there are various ways of finding out these things.

Q. And if the trade paper recites a price as having gone down, you inform the Sharon Company?

A. No, because generally the Sharon knows about it before I do, and they tell me; and that is the same case with any of the companies.

Q. The Sharon Company is generally informed as to what its competitors are doing more quickly than you are?

A. They are, naturally so; I am informed as to what my competitors are doing, too, before most people are.

Q. I am just asking the fact.

A. Yes, certainly.

Q. Have you ever informed the Sharon Company as to a reduction in price?

A. I have, when I have heard that the prices were being reduced, I have informed the Sharon.

Q. Do you have any idea of how many times you have informed the Sharon Company during the first year of a reduction in price?

A. No, I could not tell; I could not tell you how many

years or how many times a year, or the number of times during a period of eleven years.

Q. There have been several times?

A. There have been several times during a period of eleven years.

Q. You would first have a price fixed for your six months?

A. Yes.

Q. And that price would be subject to change, provided the market quotations changed?

A. Yes.

Q. And if there was a change made in the quotations you would inform the Sharon Company of that, having first learned that market change from some one of your competitors or from the trade papers, such as the Iron Age; is that correct?

A. Well, I do not read the Iron Age.

Q. What other paper do you read?

A. I read the cooperage papers. You see, we get more information from the cooperage papers than we do from the Iron Age. I would have to wade through pages and pages of information that would do me no good, whereas in our cooperage trade papers they glean out what is interesting to us, and I get it from them.

Q. And you cannot give me any idea as to the number of times during those early years that prices changed within a six-months' period?

A. No; the changes were more radical in the early years than they are now; prices are more stable now than they were at that time. I would rather see them stable, as a matter of fact; I would like to buy hoops at one fixed price, regardless of what it is, for twenty years, than to have the fluctuations.

Q. You believe in uniform prices?

A. I believe in uniform prices because it enables me to make contracts ahead then, and I know what to do; whereas when prices are fluctuating very much it makes it very difficult for me to figure ahead as to what I can do. I make contracts for four or five years at times, to supply cooperage for five years, and I have got to take quite a chance on hoops and

materials, and consequently it would be of very material benefit to me if I had some fixed price for most of those things.

Q. It would not make so much difference to you what the price was, so long as it was fixed?

A. That is it; within reason, of course. I want everybody to make a profit out of their business, but I would not want them to fix a price where they would get to be millionaires in a couple of weeks.

Q. But as to that you haven't any information?

A. As to their getting to be millionaires in a couple of weeks; no.

MR. REED: I object to all this as not cross examination.

MR. COLTON: The witness continually volunteers all kinds of information.

MR. REED: What difference can it possibly make as to Mr. Wellford's belief in one policy or another? It is facts that we are interested in.

MR. COLTON: I do not think it makes a particle of difference, but he is continually expressing them, all the same.

GEORGE W. CONNORS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. You live in Birmingham, do you not?

A. Yes.

Q. What is your occupation?

A. Manufacturer of steel hoops and cotton ties.

Q. How long have you been in that business?

A. Let me see; over thirteen years.

Q. With what company did you begin?

A. With the Atlanta Steel Company, of Atlanta, Georgia. The Atlanta Steel Hoop Company it was called in those days.

Q. The Atlanta Steel Hoop Company?

A. Yes, first.

Q. It subsequently changed its name to the Atlanta Steel Company?

A. To the Atlanta Steel Company; yes, sir.

Q. When did you start with that company?

A. In 1900.

Q. And what was your position in it?

A. Secretary and treasurer.

Q. How long did you continue to be secretary and treasurer of that company?

A. Eight years.

Q. That brought you up to 1908, I believe?

A. Yes; I was with them approximately eight years. I left them about August of 1907.

Q. And then with what company did you connect yourself?

A. I came over here in 1908 and organized the Connors-Weyman Steel Company.

Q. You became president of that, I believe?

A. Yes.

Q. And have remained so until the present?

A. Yes.

Q. What does the Connors-Weyman Steel Company make?

A. Steel hoops and cotton ties.

Q. Going back to the year 1900, when you started with the Atlanta Steel Hoop Company, what products was it making?

A. Steel hoops and cotton ties.

Q. Any bar mill products?

A. Very few at the beginning; not enough, scarcely, to mention.

Q. Did it diversify its products between 1900 and 1907, when you left them?

A. Yes.

Q. And what new products did it make?

A. They made steel nails and wire, spike rods, standard spikes, and a limited quantity of merchant bars.

Q. And light rails?

A. Light rails too.

Q. In 1900 was the Atlanta Steel Company making any steel?

A. No.

Q. When did it begin to make steel?

A. In 1901.

Q. How many furnaces did it put in at first?

A. At first it merely had one hoop mill, an eight-inch hoop mill, and one furnace for reheating the material.

Q. That was a reheating furnace, not an open hearth furnace?

A. No; no, indeed.

Q. When did it first begin the manufacture of steel ingots?

A. In 1906.

Q. How many open hearth furnaces did it build at that time?

A. Two.

Q. I assume, of course, that you used the open hearth process?

A. Yes; two billet furnaces.

Q. What capacity?

A. 35 tons each.

Q. How much steel did it make in 1906?

A. Approximately 30,000 tons.

Q. In 1907 how much steel did it make?

A. About 36,000 tons.

Q. Was that for the last year or just up to the time you left it?

A. That was for a whole year. I was in touch with it throughout 1907; after I left it I was a director.

Q. Prior to 1906, when you began to make your steel, I presume you bought billets?

A. Yes.

Q. Did you buy them on a competitive basis?

A. I did.

Q. From what companies?

A. Well, I bought from the Carnegie and the Jones & Laughlin Steel Company principally.

Q. Do you get quotations from any other makers of steel billets?

A. Yes.

Q. Will you tell us the names of some of them?

A. In addition to the Carnegie and Jones & Laughlin Steel Company, I got quotations at first from the Illinois Steel Company and the Sharon Steel Company; those are all I remember at first.

Q. Did you get any quotations on steel billets between 1900 and 1906 from the Tennessee Company?

A. Yes.

Q. From the Portsmouth Steel Company?

A. Yes.

Q. From the Andrews Steel Company?

A. Yes.

Q. And the Youngstown Sheet & Tube Company?

A. Yes.

Q. And the Republic?

A. Yes.

Q. Did you import any?

A. Yes, we imported some.

Q. The Andrews Steel Company is at Cincinnati, is it not?

A. Yes.

Q. About how many tons of billets were you buying each year?

A. Approximately 10,000 tons a year.

Q. What percentage of your billet purchases were from the Steel Corporation, and what percentage from its competitors?

A. You mean during what years; during 1900 to what?

Q. To 1906.

A. We bought 9,000 tons from the Carnegie Company and 36,000 tons from the other companies.

Q. That is, from companies outside of the Steel Corporation?

A. Companies outside of the Steel Corporation.

Q. You bought about 80 per cent. of your billets, then, from the Steel Corporation's competitors?

A. Approximately.

Q. Was there competition among these billet makers?

A. Yes.

Q. What kind of competition was it?

A. I considered it very active competition.

Q. Did the prices that they quoted you vary or were they all alike?

A. They varied.

Q. Was that so throughout that period, Mr. Connors?

A. Yes, sir.

Q. Since you came over to Birmingham and became president of the Connors-Weyman Steel Company have you been buying billets?

A. Yes, sir.

Q. About what quantity do you buy annually?

A. About 5,000 tons.

Q. Is there competition for your purchases in billets here?

A. Yes, sir; there is.

Q. Does each of these companies that you have named as competing in Atlanta compete for your business here?

A. Yes, sir.

Q. Are there any others in addition to those which compete here?

A. In addition to those I have named is the Gulf States Steel Company now, formerly the Southern Iron Company, the Grand Crossing Tack Company, the Cambria Steel Company. I believe that is all in addition to those I have named.

Q. Do you find the same variation in quotations in your purchases here?

A. I do.

Q. Is competition keen for your business?

A. Yes.

Q. How long has that been so, Mr. Connors?

A. Well, it has been so for the last 14 years, ever since I have been in the steel business.

Q. Did you ever hear of a billet pool or a billet agreement

in the early days of your experience, say in 1900, up to about 1903 or 1904?

A. I have heard of it, I think, more particularly in 1903 and 1904.

Q. Did that billet pool effectually restrain competition as far as you were concerned?

MR. COLTON: Just one moment. I object to the witness answering this question on the ground that he cannot know what was the arrangement between the different manufacturers as to the minimum price and as to whether they stuck to their minimum price.

THE WITNESS: It did not affect it as far as my institution was concerned.

By MR. REED:

Q. How did you know that it did not, Mr. Connors? What was your experience, in other words, as to that?

A. Well, I got competitive prices, and I always found that there was a lower price, which I took.

Q. And did you know, from time to time, what the minimum price fixed by the billet pool was, or was supposed to be?

A. I had an idea what it was. I don't remember that figure.

Q. I did not ask you whether you remembered the figure now.

A. But I do know that I got them less.

Q. Were you at the time advised of what this so-called pool price was?

A. Merely from hearsay.

Q. Were you able to beat the price that you were advised was the pool price?

A. I was.

Q. I have not asked you, Mr. Connors, what proportion of your billet purchases, since you came to Birmingham, have been made from the subsidiary companies of the United States Steel Corporation?

A. Since I came to Birmingham all my purchases have been made from outside concerns.

Q. You have not bought any billets at all from the Steel Corporation?

A. No billets from the Steel Corporation.

Q. Have you had any difficulty in obtaining an adequate supply of billets?

A. None whatever.

Q. Do you buy any bars?

A. Only to a very limited extent.

Q. Do you buy enough to amount to an appreciable part of your business?

A. No.

Q. How many tons of steel products do you make in a year, Mr. Connors?

A. Approximately 5,000 tons.

Q. What are your principal products at the present time?

A. Cotton ties and steel hoops.

Q. Which is the larger part of your business?

A. Cotton ties.

Q. Have you any competition in cotton ties?

A. Plenty of it.

Q. Tell us the names of some of your competitors?

A. The Atlanta Steel Company, the Sharon Steel Company, the Pittsburgh Steel Company and the Carnegie Steel Company.

Q. Does the Alton Steel Company make cotton ties too?

A. Yes.

Q. How long have they been making them?

A. Only since the latter part of 1913.

Q. They are a new concern, are they?

A. Yes.

Q. Are there any cotton ties imported?

A. Yes; there are some.

Q. So that you are in competition also with the foreign makers?

A. Yes, sir.

Q. How do you rank among the manufacturers of cotton ties of the country?

A. About one-third.

Q. That is, you are third in the list, do you mean?

A. Approximately, yes.

Q. How do you rank among the manufacturers of hoops?

A. I am at the last of the list.

Q. Have you any combinations or agreements with your competitors to fix prices?

A. None whatever.

Q. Or to limit output?

A. No.

Q. Or to divide territory?

A. No.

Q. Have you had any?

A. No.

Q. Either here or in Atlanta?

A. No; at neither place.

Q. And is that true of each of the products that you have made in the two places?

A. Yes, sir.

Q. How has the competition been throughout your experience in the steel business?

MR. COLTON: You are limiting it to his products, of course?

MR. REED: I mean, of course, in your products, Mr. Connors.

THE WITNESS: Just about as keen as it is possible for any line to be.

By MR. REED:

Q. How have you found the competition of the Steel Corporation? Have they resorted to unfair methods of competition?

A. No; I have never considered that they resorted to unfair means.

Q. Have you found them resorting to underhand or discreditable methods in the effort to fight you?

A. No.

Q. Where is your market for cotton ties and hoops?

A. In Georgia, Alabama, Mississippi, Louisiana and Texas. In fact all through the cotton belt.

Q. You sell in all these southern states that you have named?

A. Yes, sir; in all of those southern states that I have named.

Q. You spoke of having competition. Do you have it in each and all of these southern states in which you sell?

A. Everywhere.

Q. As a competitor, or as a customer, Mr. Connors, do you feel that the purchase of the Tennessee Coal, Iron & Railroad Company by the Steel Corporation worked you any injury?

A. It has never worked any injury to me and, so far as I can see, I do not think it has worked any injury to anyone.

Q. Do you know of anyone who has been injured by the purchase?

A. None.

Q. Has it been of any advantage to Birmingham or to the south as a whole?

MR. COLTON: I object to such a general question. The witness has in no way been shown to be competent to answer a question of that kind.

THE WITNESS: I consider it has been a very great advantage to the Birmingham district.

By MR. REED:

Q. And has it been of any advantage to the southern customers generally?

MR. COLTON: I object. The witness has answered the same question asked him and answered it as to the Birmingham district. I object to the witness's answering generally.

THE WITNESS: I think it has been a decided advantage.

MR. COLTON: What is that answer?

THE WITNESS: I think it has been of decided advantage.

By MR. REED:

Q. From the standpoint of the competitors and the customers in steel products in the south, do you feel that the

separation of the Tennessee Company from the Steel Corporation would or would not be a misfortune, Mr. Connors?

A. I think it would be a misfortune.

CROSS EXAMINATION

By Mr. Colton:

Q. In what way would the separation of the Tennessee Company from the United States Steel Corporation affect your cotton tie business, Mr. Connors?

A. I do not know that it would affect my cotton tie business at all. No cotton ties are made here by the Tennessee Company.

Q. In what way would it affect your billet purchases?

A. I do not know that it would affect my billet purchases in any way.

Q. In what way would it affect your manufacture and sale of steel hoops?

A. I cannot say where it would affect that either, one way or the other.

Q. Do they make hoops?

A. They do not make hoops here. The Corporation makes hoops in the North.

Q. Have I named all of your products?

A. Yes.

Q. You don't know any way in which it would affect you to have the Tennessee Company separated from the Corporation, as a competitor or a customer?

A. I think it would be rather in the nature of a calamity to the district to——

Q. In what way——

Mr. Reed: Let him finish, Mr. Colton.

Mr. Colton: I asked him personally, and I said nothing about the district.

Mr. Reed: He cannot answer in two words. He is telling you how it would affect him.

The Witness: What affects the district would in a general way more or less affect me, as well as any other manufacturing enterprise here.

By Mr. Colton:

Q. In what way would it be a calamity to the district?

A. The large expenditures of money which they have made have been of benefit to this district and this section of the country. While it would not affect any of my products, yet they cannot spend money in this district without my getting a little of it.

Q. It aids the prosperity of the district to have twenty or thirty million dollars spent in it. I can understand that. Is that correct?

A. That is it.

Q. And if the Tennessee Company continues to get an adequate supply of money from other sources, it will continue—everybody will get some of that money that is spent in the district, as you say?

A. I think so.

Q. And in what way would the separation of the Tennessee Company affect the southern manufacturers of steel, if at all? And which ones would it affect?

A. I think it would affect us all. Their policy down here, we people consider, has been a generous one. We buy from them and they buy from us, and the interchange of trade has been of great advantage to us all.

Q. Let us take the southern mauufacturers you had in mind. What southern manufacturers of steel did you have in mind when you answered Mr. Reed's question? Suppose we first take manufacturers and sellers of billets, if any, in the South—south of the Tennessee line, let us say, other than the United States Steel Corporation or the Tennessee Company.

A. The Tennessee's policy under the U. S. Steel Corporation has been a fixed one. They have handled their competitors in a broad way, and I believe, as I have stated——

Q. Just a moment.

Mr. Reed: Let him finish his answer, Mr. Colton.

Mr. Colton: I have a right to call the attention of the witness to my question, and to the fact that he is not answering it. I shall object to his answer as volunteered and not responsive. I ask to have the stenographer read the question, and I ask the witness to pay attention to it.

MR. REED: After having been rebuked, and the objection having been entered by counsel for the Government, and having been reminded of what the original question was, I insist that the witness be allowed to answer the question in his own way, and I ask the stenographer to read the answer as far as Mr. Connors had gone.

(The stenographer repeated the question and the unfinished answer as follows:)

"Q. Let us take the southern manufacturers you had in mind. What southern manufacturers of steel did you have in mind when you answered Mr. Reed's question? Suppose we first take manufacturers and sellers of billets, if any, in the South—south of the Tennessee line, let us say, other than the United States Steel Corporation or the Tennessee Company.

"A. The Tennessee's policy under the U. S. Steel Corporation has been a fixed one. They have handled their competitors in a broad way, and I believe, as I have stated——"

THE WITNESS: I believe that the money——

MR. COLTON: I object to the statement made by the witness up to this point on the ground that it is not responsive to the question.

MR. REED: If the examiner please: The witness has now been interrupted four times by Mr. Colton's reiteration of the same objection.

MR. COLTON: I beg your pardon. I have not interrupted him four times.

MR. REED: (Continuing) And I submit to the Examiner that the witness has a right to finish his answer before being interrupted any further.

THE EXAMINER: Mr. Connors, finish your answer, bearing in mind the question asked by counsel for the Government.

(By request of the witness the stenographer repeated the question and the unfinished answer thereto as follows:)

"Q. Let us take the southern manufacturers you had in mind. What southern manufacturers of steel did you have in mind when you answered Mr. Reed's question? Suppose

we first take manufacturers and sellers of billets, if any, in the South—south of the Tennessee line, let us say, other than the United States Steel Corporation or the Tennessee Company.

"A. The Tennessee's policy under the U. S. Steel Corporation has been a fixed one. They have handled their competitors in a broad way, and I believe, as I have stated——"

THE WITNESS: The billet manufacturers, as well as all other manufacturers in the steel business, would be hurt by the separation of the Tennessee Company.

MR. COLTON: Are you through? Read the question.

(The stenographer again repeated the question referred to.)

THE WITNESS: Read the answer. Didn't that embrace that?

By MR. COLTON:

Q. You didn't mention any billet manufacturers south of the Tennessee line other than the United States Steel Corporation; I asked you to name those, if you had any in mind.

A. Do you ask me that question now?

Q. Yes, I do.

A. The Gulf States Steel Company and the Atlanta Steel Company are makers of billets.

Q. Do you know whether the Atlanta Steel Company sells billets?

A. Sometimes it does.

Q. Do you know whether it is not a fact that they have used practically all of their own billets in their own manufacture?

A. They do not use all of their own billets, quite.

Q. Don't you know that the Standard Company, the Southern Company or the Gulf States Company—is that all the same thing, the one that goes into the hands of a receiver from time to time—that they use their own billets in their own finished product?

MR. REED: I object to the statement that the Southern, the Standard, or the Gulf States goes into the hands of a

receiver from time to time, there being no evidence in this case that there has ever been more than one receivership of that company.

THE WITNESS: I will ask you to repeat that.

By MR. COLTON:

Q. Do you know to what extent the Standard Company uses its own billets?

A. The Standard has plenty of billets for sale, I know.

Q. You do not know to what extent they use their own billets?

A. No.

Q. Have you named all the billet manufacturers south of the Tennessee line that you know of in the South, other than the Tennessee Company?

A. Yes.

Q. Now, in what way would the separation of the Tennessee Company from the United States Steel Corporation injure either of those two billet manufacturers that you have referred to?

A. The Tennessee Company, with its large expenditures, has required a great deal of iron and steel, and if they are allowed to keep on with their expenditures, they will require a great deal more; all manufacturers of steel products, including billets, would naturally be damaged considerably if those large operations were stopped. Therefore I consider it a great advantage to have the Tennessee Company owned by the United States Steel Corporation.

Q. If money continues to come into the Tennessee Company from other sources, it would not affect it then?

A. No.

Q. Then you assume that the Tennessee Company will not be able to get money from any source except the Steel Corporation? Is that your assumption?

A. It has not been able to get it in the past.

Q. Do you know anything about to what extent the syndicate had taken means to raise money for the Tennessee Company before it was absorbed by the United States Steel Corporation?

A. I do not know what means they took, but I know that they did not succeed, for they did not get the money.

Q. Do you know how much money they had actually raised, of your own knowledge?

A. I do not, but I know they did not raise enough, because they did not pay their bills promptly.

Q. But you don't know how much money they raised?

A. I do not.

Q. Do you know how long the syndicate had charge of the Tennessee Company before the Steel Corporation got it?

A. No, but the Tennessee Company had never paid debts promptly until the United States Steel Corporation got it, because I have been a creditor and I know what I am talking about.

Q. Did you have any bill in 1907 that was unpaid by the Tennessee Company?

A. I can not recall; I have had so many of them that I can not recall any particular one.

Q. You can not recall any in 1907?

A. No.

Q. And you do not know when the syndicate first acquired charge of it?

A. About seven years ago; I don't remember the exact date.

Q. Do you know as to the wealth of John W. Gates, who was one of the members of the syndicate that had charge of it?

A. I have always understood that he was a wealthy man.

Q. Did you know anything about the wealth of Mr. Payne, of the Standard Oil Company, another one of the men in that syndicate?

A. Nothing except from hearsay.

Q. And that it was generally reputed that he was a man of wealth?

A. Yes, I have understood that.

Q. Did you know anything about Mr. Hanna, another member of the syndicate?

A. No.

Q. Don't you know of him as a large dealer in ore?

A. Only by hearsay.

Q. You do not know how much money the syndicate had raised, nor the wealth of the syndicate?

A. No.

MR. REED: Or the wealth of the individuals; which are you asking him about?

MR. COLTON: I am asking him about both, and he has answered.

By MR. COLTON:

Q. Now, would it affect them in the other products any more than it would in billets, to separate the Tennessee Company from the United States Steel Corporation?

A. I will repeat what I have said; I think it would be harmful to all.

Q. That is a mere conclusion; I want to know whether it would affect them in the same way, or affect them in a different way.

A. Approximately in the same way.

Q. The only idea is that it would stop the expenditure of money to take the Tennessee Company from the United States Steel Corporation?

A. I have thought so, yes; I think so.

Q. That is the only way in which you think it would hurt the manufacturers of steel, what few manufacturers of steel there are in the South?

A. To stop this large development which they have undertaken here in this district would hurt Birmingham, all the manufacturers, all the merchants, and, in my opinion, would hurt the South.

Q. If it were stopped?

A. Yes.

Q. But if money came in from elsewhere, the money coming from elsewhere would be just as good for the country as from the United States Steel Corporation?

A. Yes; there is no question about it.

Q. It is just a question of money?

A. It is just a question of money, which we have not had until lately.

Q. Now, in 1902 you were connected with what company?

A. The Atlanta Steel Hoop Company.

Q. What was your total tonnage in all steel products?

A. In 1900?

Q. Yes.

A. The first purchase we made was from the Carnegie, of steel, in 1900, but we did not commence to work it until the next year, until after the mill had been built, so that it was in 1901 we commenced operating.

Q. Then you were not engaged in the steel business until during 1900?

A. I was engaged in buying, and building a mill; about as hard as it was possible for a man to be.

Q. From whom did you buy your steel in 1900, the Carnegie Company?

A. From the Carnegie Company.

Q. You bought all your requirements in that year from the Carnegie Company?

A. Just bought one lot, 7,000 tons.

Q. In what form did you buy it?

A. In the shape of inch and a half square billets.

Q. Do you recall about what time in the year you bought those billets?

A. November 13, 1900.

Q. Do you recall about the price you paid for the billets then?

A. $19, Pittsburgh.

Q. What was the next purchase of billets that you made?

A. From the Tennessee Coal, Iron & Railroad Company in 1901.

Q. Do you recall about the price you paid for them?

A. $23 f. o. b. Ensley.

Q What date was that in 1901?

A. I made three purchases in 1901; March 9th, 500 tons; March 27th, 10,000 tons; May 9th, 3,000 tons.

Q. To which did that price of $23 apply?

A. It applies to all three purchases.

Q. And they were all made from the Tennessee Company?

A. Yes.

Q. Those were the purchases that you made in that year, 1901?

A. Yes.

Q. At that time the Tennessee Company and the Carnegie Steel Company and the Illinois Steel Company were in competition for your business?

A. Yes.

Q. In 1902 what purchases did you make of billets?

A. Let me see; I did not make any billet purchases in 1902.

Q. You bought enough billets in 1901 to last you through 1902?

A. To last us through 1902.

Q. Take the year 1903; what purchases did you make that year?

A. I bought 3,000 tons from Germany.

Q. At what price?

A. $28.75 delivered Atlanta. Later during the year I bought 2,000 tons from the Carnegie Company.

Q. At what price?

A. $27.75 delivered.

Q. What was it f. o. b. Pittsburgh?

A. I don't remember what it was f. o. b. Pittsburgh, because the contract made that price delivered; the freight, I presume, was $4.50 a ton.

Q. Any other purchases in 1903?

A. None.

Q. Now, taking 1904; from what companies did you purchase?

A. I bought 12,500 tons from Jones & Laughlin Steel Company, Pittsburgh.

Q. At what time in the year did you get that?

A. That was divided into three purchases; the first was March 16th, 6,000 tons; October 22d, 5,000 tons; and November 11th, 1,500 tons.

Q. Do you recall your purchases also for 1905?

A. Yes; from the Jones & Laughlin Steel Company.

Q. What were the different tonnages?

A. 7,000 tons.

Q. Give the dates of the purchases, if you know them.

A. April 16, 1905.

Q. Just one purchase?

A. That one purchase, 7,000 tons.

Q. What was the price you paid for that 7,000 tons?

A. $27.64 delivered in Atlanta.

Q. I suppose you have refreshed your memory as to these figures?

A. Yes.

Q. Did you refresh it from the contracts that you made yourself?

A. Yes.

Q. What was the next purchase you made of billets?

A. 1908 was the next purchase, after I came over here.

Q. You did not make any purchase from the 16th of April, 1905?

A. No. You see, Atlanta made its steel after that time.

Q. Now, during the existence of the billet pool, what was the minimum price in the billet pool?

A. I don't remember that.

Q. You do not know to what extent the members of the billet pool violated their agreement among themselves?

A. I know they said there was a pool, and I knew the figure at that time. I bought less, and some of my friends did the same.

Q. Some of them got under the pool price, and you got under the pool price?

A. I presume so.

Q. Do you know that you got under the pool price?

A. I know I got under the price they told me was the price the pool was asking, but whether or not there was a pool is something that I don't know anything about.

Q. It was generally understood at that time, was it not?

A. Well, it was current talk; there was a kind of rumor; I never knew whether it was true or not.

Q. The violation on the part of these different makers of a pooling agreement is nothing very unusual at times?

A. I don't know whether it is or not.

Q. And you can not recall for any of these years the different pool prices during which the pool existed?

A. I don't know that the pool existed. The fact that I got the billets at a less price than what the pool was showed me there was no pool.

Q. Any one violating the agreement would give you a price less than the pool price, would they not?

A. If there was a pool price, and I got a less price, it certainly would be a violation on the part of the seller.

Q. And you can not tell whether it was a violation of the pooling agreement or not, could you, when there was a price?

A. I do not know whether there was any pool or not, except from hearsay.

Q. What I am getting at is this: assuming you get a price of $22, unless you know what the minimum price is, you do not know whether that price conforms to the minimum price agreed upon between the different manufacturers, do you?

A. No.

Q. Do you know from any source—and the only source you claim to know anything about the pool price from—was hearsay?

A. Yes.

Q. Now, if you did know about that price of $22 as the minimum price from hearsay, if you got $19 you do not know whether that is a violation of the pool agreement or not, do you?

A. If there is a pool agreement, it certainly would be a violation.

Q. And you can not state, from the fact that you got $19, when the price was, or was supposed to be, $22 for the pool, whether it was due to the fact that there was no pool, or whether it was due to the fact that somebody violated the pooling agreement?

A. That is very true.

Q. You stated that the pooling agreement was reputed to exist during the year 1903, especially, as I understood you?

A. 1903 or 1904; I really don't remember.

Q. You bought from Germany in 1903?

A. Yes.

Q. I presume you bought from Germany at a less price than you could have bought for in this country?

A. Yes.

Q. And you bought at the highest price that you paid at any time for the entire period?

A. Yes, sir.

Q. And that was one of the two years in which the pool was especially reputed to exist in the trade?

A. As well as I remember.

Q. The total purchases of the Atlanta Company only amounted to about 45,000 tons for all these years?

A. Yes.

Q. In billets?

A. Yes.

Q. Now, what was its output in finished products?

A. About the same.

Q. It would be a little less, would it not?

A. A little less. Of course the loss—there is a certain conversion loss—furnace and scrap.

Q. You do not have any first-hand information as to the Atlanta Company since you left it, as to its production?

A. Since 1908; since the first part of 1908.

Q. In 1906 the Atlanta Company made how many billets?

A. 30,000 tons.

Q. And in 1907 how many?

A. Both of them, approximately 36,000 tons.

Q. And in finished products in each of those years it made somewhat less?

A. Somewhat less, yes.

Q. Where did it procure its pig iron for those billets?

A. From the Birmingham district.

Q. From what companies in the Birmingham district?

A. I think most of it came from the Tennessee.

Q. Could you give me about the percentage that came from the Tennessee?

A. I could not, offhand.

Q. The largest portion, however?

A. The largest part of it, yes.

Q. Did you purchase in billets on the outside, in 1906 and 1907?

A. No.

Q. During the period that you were purchasing billets, among the competitors for your business were the Illinois Steel Company, the Carnegie Steel Company and the Tennessee Coal, Iron & Railroad Company; is that correct?

A. Yes. The Youngstown Sheet & Tube Company was another.

Q. You can name the others if you like, but I was just asking whether that is correct.

A. That is correct; but there were some others.

Q. Jones & Laughlin?

A. Yes.

Q. What was your tonnage in cotton ties the first year you began to make cotton ties in this district?

A. In bundles, you want it, or in tons?

Q. I would prefer to have it in tons.

A. The first year I would say approximately 2,000 tons.

Q. That would be 1908?

A. Yes.

Q. How many bundles would that be?

A. About 100,000.

Q. You did not mean to say at any time that you manufactured one-third of the cotton ties that were manufactured in the country, did you?

A. I certainly did not that year; and I did not manufacture one-third of the cotton ties in any year. I rank third in the production of cotton ties.

Q. That is what I understood you to say.

A. That is, I rank third this year.

Q. In 1909 what tonnage did you manufacture in cotton ties?

A. I don't remember offhand.

Q. Would it be about two-fifths, or something like that?

A. No. In 1909 it was probably less than in 1908. Everything was sliced, and we shut the mill down a good portion of the time.

Q. And there was a good deal of cutting of prices in 1909, was there not?

A. Yes; quite a bit.

Q. The prices were severely cut in cotton ties as well as in other steel products in 1909? Is that correct?

A. Yes, sir.

Q. Do you have any idea what tonnage the Carnegie Company sold in 1909 in cotton ties?

A. I don't remember.

Q. But whatever the cause was, you diminished your business in cotton ties very much in 1909?

A. Yes.

Q. Did it affect your hoop business too?

A. It affected that somewhat.

Q. The cutting of prices affected you in both, and caused you more or less to withdraw from the business entirely?

A. For the time being, yes.

Q. In 1910 prices were a good deal better, were they not?

A. A little better; yes, sir.

Q. I neglected to ask you about what your total tonnage was in 1908, if you can give that—that is, in hoops, cotton ties and everything that you manufactured.

A. Somewhere about 3,000 tons.

Q. And in 1909 you cannot estimate it?

A. No; it is less than that I know. I don't remember offhand.

Q. In 1910 what was it?

A. About 3,500 tons total.

Q. In 1911 what was your total?

A. About 5,000 tons.

Q. How much of that was cotton ties?

A. The greater portion; I don't remember just what proportion.

Q. Over half?

A. Yes.

Q. In 1912 what tonnage did you get out?

A. About the same; 5,000 tons.

Q. Would the same thing hold true, about more than half being cotton ties?

A. Yes, sir.

Q. In 1913?

A. About the same.

Q. Do you buy bars or billets?

A. Billets.

Q. From what company have you bought your billets?

A. From Jones & Laughlin Steel Company. I answered that some time ago.

Q. All of your billets since you have been——

A. No; the Jones & Laughlin Steel Company at first and then the Southern Iron & Steel Company.

Q. Those two companies are the only ones you bought from?

A. They are the only ones I bought from. I got prices from all of them, but I bought from those two, because the prices were a little more advantageous to me.

Q. What company did you buy from in 1908?

A. Jones & Laughlin.

Q. In 1909?

A. The same—Jones & Laughlin.

Q. And in 1910?

A. Jones & Laughlin.

Q. And in 1911?

A. The Southern Iron & Steel Company.

Q. And in 1912?

A. The Southern Iron & Steel Company.

Q. And in 1913?

A. The same.

Q. As I understand it, for the first three years you bought exclusively from Jones & Laughlin, and for the last three years of the Southern Iron & Steel Company or some one of those different companies, from time to time, of the same general management?

MR. REED: That is not what he said.

MR. COLTON: I asked him. I think that is correct: that it

is either the Standard Steel or the Southern Steel or the Gulf States Steel?

THE WITNESS: Yes; the Southern Iron & Steel, we will call it—now the Gulf States.

By MR. COLTON:

Q. Those two products are the only ones you manufacture and sell—cotton ties and hoops?

A. Those are my principal products.

Q. What other products do you manufacture and sell?

A. I have made a few light rails, just a little bit over here, as well as a few bars, but not enough to amount to anything.

Q. I would like to have you give me for the Atlanta Company its tonnage in its different finished products, if you can do that approximately, beginning with 1901. What were its principal finished products?

A. That has been so long ago that it would be almost guesswork for me to say much about their tonnage in finished products.

Q. They did not amount to much of anything in merchant bars, I understood you to say?

A. Not much.

Q. Was their principal tonnage in wire nails?

A. No.

Q. What was their principal tonnage in?

A. In which year are you speaking of?

Q. Say in the year 1901.

A. They did not make wire nails in 1901.

Q. When did they first make wire nails?

A. I think it was about 1906 that they commenced making wire nails.

Q. What was their principal product during the period from 1901 to 1906?

A. Cotton ties and steel hoops.

Q. And their principal tonnage then was in steel hoops, was it not?

A. No; some years they would make more hoops than

ties, and other years they would make more ties than hoops; it would vary.

MR. COLTON: That is all.

MR. REED: That is all.

(Whereupon an adjournment was taken until to-morrow, Tuesday, January 13, 1914, at 2 o'clock p. m., in room 1041, Maison Blanche, New Orleans, La.)

ONE HUNDRED AND FORTIETH DAY.

MAISON BLANCHE,
New Orleans, Louisiana.

Tuesday, January 13, 1914.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the Defendants, MR. REED.

JAMES W. PORCH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Porch?

A. New Orleans.

Q. How long have you lived here?

A. About 16 years.

Q. What is your present occupation?

A. Manager of the New Orleans branch of the Lukens Iron & Steel Company, of Coatesville, Pennsylvania.

Q. How long has the Lukens Company had a warehouse in New Orleans?

A. Between 17 and 18 years.

Q. Have you been manager of it during all of its existence here?

A. No; sixteen years.

Q. All but the first year or two?

A. Yes, sir.

Q. What stocks does the Lukens Iron & Steel Company carry in that warehouse?

A. Do you mean what kinds?

Q. Yes; what varieties of steel?

A. We carry structural steel, iron and steel bars, boiler

tubes, rivets, plates, flange, marine and tank steel. Those three are included in plates. Also thin sheets and tool steel.

Q. You carry no rails?

A. No, sir.

Q. And no pipes?

A. No, sir.

Q. No galvanized sheets or wire?

A. Nothing galvanized.

Q. From what makers do you secure your plates for this warehouse?

A. As a rule, from our own mill.

Q. Do you ever buy from other people?

A. Yes, sir.

Q. Under what circumstances would you buy from other makers than the Lukens Iron & Steel Company?

A. When the price is better and the delivery is quicker.

Q. Do you mean to say that you buy from your competitors when their price is better than that of the Lukens Steel Company?

A. I have frequently done it; yes, sir.

Q. Then the Lukens Company must treat you in a somewhat independent way?

A. It is all their business, but it is regarded as an independent effort.

Q. So that you buy, in a sense, in competition?

A. I buy in the cheapest market; yes, sir.

Q. And in that sense your warehouse stands on its own bottom, so to speak?

A. Yes. Whenever conditions are equal, I buy plates from our own mill, of course. When they are not equal, and conditions are otherwise, I get them elsewhere.

Q. About how many tons of steel do you buy and sell in the course of a year?

A. From 5,000 to 7,000 tons.

Q. Then is all of that handled directly through your warehouse?

A. Not all of it. Maybe 2,000 tons of it is handled otherwise, direct to customers.

Q. And the balance is handled through the warehouse?

A. Yes.

Q. Have you any competition in the sale of plates?

A. Yes, sir.

Q. Is that competition keen or otherwise?

A. It is owing to how hungry they are for business. Sometimes it is keener than at other times. It is generally keen enough.

Q. When business is fairly dull, as at present, do you find any keen competition?

A. Very.

Q. Have you observed any indication of a combination among the makers to fix the prices on plates since 1904?

A. It is not my experience; no, sir.

Q. In structural shapes: does the Lukens Company make any structural shapes?

A. No; nothing but plates.

Q. From what companies do you buy your structural shapes?

A. I buy from various companies. I buy from the Eastern Steel Company, the Phoenix, from Jones & Laughlin, and from Carnegie.

Q. Do you buy on a competitive basis?

A. Yes, sir.

Q. Do you ask quotations from the different makers before you buy?

A. In all cases where I have not a contract, yes, sir.

Q. Before you place a contract do you ask quotations?

A. Then I am keen about prices, so that I get a contract on a proper basis, yes, sir.

Q. When you are not buying on a standing contract, Mr. Porch, but are asking for quotations and buying in lots from time to time, how do you find quotations of these different makers—are they alike or do they vary?

A. They frequently vary.

Q. Is any one company always low or always high?

A. No, sir.

Q. How long has that been so, that you have found that variation of prices on structural material?

A. Ever since we quit as a direct representative of Jones & Laughlin.

Q. When was that?

A. Five years ago.

Q. About what percentage of your structural shapes do you buy from the United States Steel Corporation or its subsidiaries?

A. Well, not to exceed 20 per cent.

Q. I neglected to ask you the names of your principal competitors in plates in this district.

A. You mean mills?

Q. Yes.

A. The Portsmouth Steel Company, the Tennessee Coal, Iron & Railroad Company, and in sheets, the Portsmouth and the La Belle.

Q. The Carnegie is a competitor of yours in plates too?

A. The Tennessee Coal, Iron & Railroad Company.

Q. Do you buy galvanized sheets at all?

A. No, we don't handle those.

Q. How about the plain sheets, down to 18 gauge?

A. Nothing thinner than 18.

Q. Do you buy those on a competitive basis?

A. Always.

Q. Is there keen competition for your sheet business?

A. Very.

Q. Tell us the names of some of the manufacturers who solicit your business and who submit quotations.

A. The Tennessee Coal, Iron & Railroad Company, the La Belle and the Portsmouth, and Alan Wood.

Q. Do any of the Ohio or western Pennsylvania mills quote to you?

A. No; we never buy from anybody but the names I have given you.

Q. Do you find varying quotations there?

A. Yes.

Q. How long has that been so?

A. Always.

Q. On your boiler tubes what sources of supply have you?

A. The Monongahela Tube Company.

Q. Do you buy principally from them?

A. Yes.

Q. Are your boiler tubes sold in competition with those of the National Tube Company?

A. Yes.

Q. Is that competition keen or otherwise?

A. Always keen.

Q. How long has it continued to be keen?

A. During the extent of my experience.

Q. You buy both iron and steel bars?

A. Both iron and steel; yes.

Q. What kind of boiler tubes do you buy?

A. Steel.

Q. Don't you deal in any iron tubes?

A. Except mill direct shipment.

Q. When you speak of competition in boiler tubes you mean competition in steel boiler tubes of the kind that the National Tube Company makes?

A. Yes. They are not the same; we do not handle them in stock.

Q. How are the conditions in steel bars; is there competition there?

A. Yes.

Q. What are some of the companies that solicit your business and submit quotations to you?

A. We buy steel bars from Lebanon Valley; Tennessee Coal, Iron & Railroad Company, and the Knoxville Iron Company; we buy from all those three, depending on which gives the most satisfactory terms of shipment and price.

Q. Do you import any bars?

A. Well, we are doing it; we have orders pending; they have not arrived.

Q. You have orders pending abroad now?

A. They are at sea; yes.

Q. From what country are they coming?

A. Germany.

Q. Why do you buy there instead of this country?

A. We are forced to, on account of price.

Q. That is, you found you could buy cheaper there than here?

A. Yes.

Q. How long since those orders were placed?

A. About six weeks.

Q. Six weeks ago the market in steel bars in this country was not exactly flourishing, was it?

A. Very dull; and the mills were running on very few orders.

Q. And the prices were pretty low?

A. Yes; and have come down considerably lately.

Q. You beat those prices in Germany?

A. We beat those prices very materially, yes.

Q. Taking each of these products, is there keen and active competition?

MR. COLTON: Just a moment. I object to the witness making any statement except in so far as it relates to his own business; I do not know that he intends to.

MR. REED: Just answer the question.

THE WITNESS: My experience is keen competition in all the lines, including that which we make at our own mill.

By MR. REED:

Q. How have you found the competition of the United States Steel Corporation? Has it been fair or otherwise?

A. I have always found it exceedingly fair, from my experience.

Q. Have you found them at any time resorting to underhand methods or unfair means?

A. I never have; no, sir.

MR. REED: You may cross examine, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. You have been in a certain line of the steel business for how many years?

A. Sixteen.

Q. In what capacity did you come to New Orleans?

A. Manager.

Q. Manager of what?

A. The New Orleans branch of the Lukens Iron & Steel Company.

Q. What year was that?

A. 1898.

Q. What products did you handle in 1898?

A. Everything that I have enumerated except structural.

Q. What were they?

A. Plates, thin sheets, rivets, boiler tubes, bar iron and bar steel, and tool steel.

Q. Was the Carnegie Company selling plates in this market at that time?

A. No, not extensively; not at all, to my knowledge, because we were not buying from them. I was not asking prices on plates at that time of any other mill than our own. We started with our own stock there.

Q. You were simply an agent for that company?

A. Well, I am a little more than an agent, if you want an explanation.

Q. You see, I want what you were at that time.

A. I was more than an agent at that time, since I have always done the buying.

Q. What tonnage of plates did you sell in this market at that time?

A. I do not know exactly, but more or less 3,000 to 4,000 tons; that is an approximation.

Q. That was in New Orleans?

A. In this vicinity, yes.

Q. Of thin sheets, what were you selling in 1898?

A. Oh, I don't know. A thousand tons, maybe.

Q. And rivets?

A. We were handling rivets at that time. It is altogether guesswork how much we were handling that long ago; I could look up the record and give it to you exact; I have not it in mind.

Q. Could you give it approximately?

A. Fifty tons, maybe.

Q. Boiler tubes?

A. I have no idea.

Q. Was it over 50 tons?

A. Approximately. I have no idea of that time in point of separate articles. I haven't it in mind; have had no occasion to keep it in mind.

Q. Do you know from whom you got your boiler tubes?

A. Yes. We bought them from the National at that time.

Q. You bought them from the National Tube Works, did you not?

A. Yes.

Q. Not the National Tube Company, in the early part of 1898?

A. No.

Q. Was the Tennessee Company selling plates here then?

A. No, sir; not at that time.

Q. Was the Illinois Company selling plates in New Orleans at that time?

A. I don't think they were. I think the only aggressive competitor we had at that time was Portsmouth.

Q. Do you recall who your competitors were at that time in plates?

A. Well, the plant at Bessemer was shipping in something at that time, narrow sheets.

Q. You mean by the plant at Bessemer the Tennessee Company's plant?

A. No; the old Birmingham Rolling Mill Company at that time.

Q. Was that taken over by the Tennessee?

A. No, sir; it was not then. It was owned by Louisville people; I believe Mr. Caldwell was president of it.

Q. You were then buying your boiler tubes from the National Tube Company. How long did you continue to buy your boiler tubes from the National Tube Company?

A. I think we bought boiler tubes from the National Tube Company up to about five or six years ago.

Q. That would be up to about what date?

A. Well, say 1907 and 1908, somewhere along there—no, sir; 1909; about five or six years ago.

Q. About 1909?

A. Yes.

Q. In 1909 what company did you buy your boiler tubes from?

A. We have only bought from two people. Then we began to buy from the Monongahela.

Q. Did you buy steel boiler tubes?

A. Steel altogether. That has been our stock, always.

Q. Did you quit the National Tube Company entirely in 1909?

A. Approximately; somewhere between 1907 and 1909.

Q. You have only purchased from those two companies, as I understand?

A. That is all.

Q. Take plates. You were purchasing in 1898 from the Lukens Iron Company. You were their agents, practically?

A. Yes. They put in a stock prior to my coming. It was there then.

Q. Do the profits of this business go to the Lukens Iron Company?

A. Yes; they own the business.

Q. And they have a warehouse down here to handle their own products, and to handle, in addition to that, products on the side?

A. That is right.

Q. What was the first year you purchased any plates on the outside?

MR. REED: You mean outside of the Lukens Company?

MR. COLTON: Outside of the Lukens Company.

THE WITNESS: I don't remember, but it has not been more than five or six years ago when I began to place orders for plates outside, when conditions required it.

By MR. COLTON:

Q. And the profits go to the Lukens Iron Company, if any?

A. Always, yes.

Q. Four or five years ago? What year was that?

A. 1908 or 1909, maybe, I began to buy elsewhere some. I may have started earlier or later. It is approximate.

Q. About 1910, then, what percentage of your plates were you getting from outside sources?

A. A very small percentage.

Q. It has always been small, rather insignificant?

A. It has been larger in some qualities than others. To make that clear, I never bought anything but flange and marine and fire box steel from our own mill. The steel I bought on the outside was always tank steel. I always bought the high grades of steel from our own mill.

Q. You bought tank steel on the outside?

A. That is all.

Q. You cannot give me any idea of the tonnage of what you bought in 1910 of tank steel?

A. No, sir.

Q. Nor for any year?

A. No, sir.

Q. Other than to say that it is comparatively small, as compared with the other purchases in plates?

A. Comparatively small.

Q. Of that you purchased from the outside in 1910, from what company did you get it?

A. I got it from Portsmouth.

Q. Is that the only other company you have gotten it from?

A. Yes; I have been buying from Portsmouth ever since—well, during the time Levi York had it, the old plant; ever since then, at times; also, at times, from the Tennessee.

Q. What tonnage did you get from the Tennessee in 1913?

A. Not the Tennessee, no; the old mill, the other mill. It was not the Tennessee. It was the Birmingham Rolling Mill Company; and after that, when Mr. Mohns was the sales agent at Bessemer. I don't think the Tennessee owned it then.

Q. When did you quit buying from that company you referred to a minute ago as the Tennessee?

A. I kept buying from them until they failed.

Q. When was that?

A. I expect that was about 1906 or 1907, or somewhere along there; it may have been earlier.

Q. 1906 or 1907?

A. Something like that. It may have been earlier. That was the old Birmingham Rolling Mill.

Q. You don't know whether that was acquired by the Tennessee Company or not, nor when it was acquired, if at all?

A. That mill has been dismantled. I don't know who acquired it or what became of it, really.

Q. Did you take the quotations on plates in 1901?

A. Outside?

Q. Yes.

A. I probably got quotations. I always did that. Whether I bought any in 1901, I don't know.

Q. From whom did you get quotations in 1900?

A. I got them from Portsmouth.

Q. That is the only company outside of the Lukens Iron & Steel Company that you recall having gotten quotations from in 1900?

A. I may have gotten quotations from Youngstown.

Q. I am just asking whether you recall anybody else or not?

A. Not now.

Q. You don't know whether Youngstown was making any pipe at that time, do you?

A. No.

Q. By "Youngstown" you mean the Youngstown Sheet & Tube Company?

A. Yes.

Q. Why did you not get quotations from Carnegie and Illinois, the largest manufacturers of plates in the United States at that time?

A. On account of the difference in freight rates. I had general information of their prices at the time. I got it through the current iron and steel journals.

I want to explain. Frequently when I would get tank steel from Portsmouth it would be in connection with thin sheets in order to make up carload quantities. That would

frequently be the inducement for buying tank steel on the outside.

Q. The character of the plates that the Lukens Company made, of course, you got chiefly from them, because it was their business?

A. Naturally, it is their business, yes; they own it.

Q. Who did you get quotations from in 1902 in plates, if you did get quotations?

A. I always made it a point to keep informed about these prices.

Q. You did that through the trade papers, did you not?

A. No, sir. I wrote the various mills, people who were competitors in this market, but naming the exact year or the exact mill for that year is rather a difficult thing to do. I am only guessing when I state it, except as to Portsmouth and La Belle, people who were standard in this market at that time. When I got prices and was really ready to place the tonnage, or to know the condition of the market, I generally secured quotations from wherever I could, from people who were actually doing business in this territory.

Q. Prior to 1906 can you now state, as a matter of recollection, any other company than the Portsmouth and La Belle, and that Birmingham Company that you got quotations from in plates?

A. That is all that I can recall.

Q. Between 1906 and 1910 what companies do you now recall that you got quotations from in plates?

A. The Portsmouth always; La Belle; Jones & Laughlin; Soho mill and the Tennessee.

Q. That was the period—did I say 1906 to 1910?

A. Between 1906 and 1910, I understood you.

Q. If you will bring that down to 1913, from 1910 to 1913?

A. It would be very much the same.

Q. You did not get quotations from the Carnegie Company?

A. No.

Q. The Carnegie is not much farther from here than Jones & Laughlin, is it?

A. No; the same thing. At that time they were not a factor in this market in plates.

Q. At what time?

A. 1906 to 1910, or prior to opening up their office here.

Q. When did they open up their office here?

A. I don't recall; about four years ago, maybe.

Q. They are a factor here now?

A. They are a factor, naturally.

Q. In bar steel—when did you begin to handle bar steel?

A. Well, almost the same time that we handled bar iron; maybe a little later. I recall when I came here we had only iron bars. Afterwards we took on steel, and stocked up with steel bars from the Jones & Laughlin Steel Company.

Q. You were for a while a representative of the Jones & Laughlin Steel Company, were you not?

A. Yes, we represented them here for a period.

Q. What was that period?

A. About from 1904 to 1908.

Q. And in what products did you represent Jones & Laughlin?

A. In their structurals, and steel bars as well; and shafting.

Q. During that period did you get your structural steel and steel bars from any other source than Jones & Laughlin?

A. No.

Q. Prior to 1904 from what source did you get your steel bars?

A. If we handled them we got them from Jones & Laughlin; started with them.

Q. Up to 1908 whatever you had to do with the steel bar business or the structural business was as representative of Jones & Laughlin, as I understand it.

A. We were representing them; and we were direct cash buyers of the stock we bought from them, exclusively on steel bars during that period that I have named, which was more or less correct.

Q. Beginning about 1908, when you ceased to be representatives of them, the first year, from what companies did you buy your steel bars?

A. The Lackawanna.

Q. And the second year?

A. It does not go by years; it goes by periods, the length of which I do not now recall, and after we quit buying from Jones & Laughlin we bought from the Lackawanna and then gradually became a free lance and bought where conditions would suit us best.

Q. How many years did you continue to buy from the Lackawanna, about, approximately?

A. Approximately a year or a year and a half; something like that. Until it got so we could not get service; after their order books got full we were forced to go to the mills that would give us service.

Q. That was in 1910, wasn't it?

A. Approximately.

Q. Then you did not begin to buy bar steel generally until 1910?

A. More or less.

Q. In 1910 what different mills did you purchase your bar steel from?

A. Well, we bought from Jones & Laughlin, and bought from Carnegie, and bought from Knoxville, and bought from the Tennessee.

Q. Did you buy any steel bars from Knoxville in 1910?

A. No, I don't think we did; I think they began to make steel bars since then. I have bought from them, but the exact date is an element of uncertainty with me in this testimony, because I don't recall.

Q. Last year was the first year you bought from Knoxville?

A. It is more recently than the date I fixed, because they were not making them.

Q. Then, when you were stating the companies you purchased from in 1910, of steel bars, you just stated your general impression; you haven't a very definite recollection?

A. No; I have not a definite recollection now of just when it happened, because time flies. I have dealt with those mills, but just when the dealing commenced or when it was severed and when we quit buying and bought elsewhere, I do not re-

call, but I do buy occasionally from all the mills I have named now.

Q. In 1910 do you recall at what price you purchased from Jones & Laughlin?

A. No, I don't remember.

Q. Or at what price you purchased from the Carnegie Company?

A. I do not recall the purchase price in 1910.

Q. Do you recall getting quotations at the same time from Jones & Laughlin and Carnegie in 1910?

A. Invariably I got quotations from every source and made a contract when it was advisable to make a contract.

Q. I know, but do you have any recollection about 1910?

A. Yes, I had contracts in 1910.

Q. With Jones & Laughlin and the Carnegie Company?

A. No; I had contracts in 1910—well, probably with two mills then.

Q. Who were they?

A. I may have had a contract with the Lackawanna and J. & L.

Q. Did you purchase from the Carnegie Company in 1910?

A. Purchased from the Carnegie at different times; yes, I guess I did in 1910.

Q. Have you any recollection as to whether you did or did not?

A. I can not separate those years and tell you definitely.

Q. What tonnage did you purchase, approximately, in 1910 in steel bars?

A. I haven't any idea.

Q. Was it 50 tons?

A. Oh, yes, but I can not give it to you anything like correctly; I can get you the real figures if you want them, but I would not guess at it.

Q. Was it over 200 tons?

A. Yes.

Q. 500 tons?

A. No; it might have been 250 of steel bars. Steel bars

have been slow of introduction down here; iron bars are more consumed.

Q. A comparatively small portion of your business?

Mr. Reed: Let him finish the answer.

The Witness: The introduction of steel bars has been a matter of slow process; iron bars have been in demand, and steel bars have not supplanted them as they have in other sections of the country.

By Mr. Colton:

Q. As I understand it, in 1910 your use of steel bars was still insignificant, and had been insignificant for the entire period up to and including 1910; is that correct?

A. Yes; gradually increasing, but slowly. Well, gradually increasing.

Q. In 1911 about what was the quantity of steel bars you got?

A. About the same, I suppose, more or less; whatever the increase called for. It was not very material; it was not very heavy.

Q. It has not been very material up to the present time, has it?

A. No, not compared with iron bars, even at the present day.

Q. And it is a very small tonnage as compared with the other products that you handle, is it not?

A. It was one of the items of the aggregate of tonnage; I do not know the proportion, but it would be more or less in proportion to structural.

Q. And in proportion to plates?

A. In plates the consumption is not as great as it used to be, because there is not the boiler manufacturing in the South that there was when I first came; there are more made in boiler factories north, and a good many of the boiler factories that were in existence then are out of business.

Q. Suppose you give me an estimate, if you have any knowledge on the subject, of about what your bar purchases were in 1911.

A. Well, it is more or less the same.

Q. About 200 tons?

A. No marked increase in the tonnage from the basis we started in on; it is guesswork.

Q. And about 1912 it is about the same—still guesswork?

A. You ask me for something that I am not prepared to answer; I am telling you.

Q. I am not criticising you.

A. Oh, if you are not, I say that it is guesswork, because I haven't looked at the figures; they have gone into the past, and I do not recall them by cycles of twelve months.

Q. Can you give them by periods from 1911 to 1912 or 1913, inclusive; the entire period?

A. I can give it to you, but I can not recall figures; I have not charged my mind with that tonnage, and it is all an approximation.

Q. As I understand it, it is, of course, an approximation, but it runs about 200 or 250 tons; that would be your approximation?

A. Yes, along there.

Q. Did you have sufficient information about the movement of prices in the steel business to notice a marked cut in price that occurred in 1911?

A. Well, I have made it a point to endeavor to be informed about prices, and frequently, when I thought it was right, I made contracts, and when I found that my contracts were ranging below the quotations from day to day I was not particular to ask people for prices, when I knew I could not give them tonnage, so that there were periods when I was covered by contracts, so that I did not keep in touch with the market as I did when I was a real buyer.

(At the request of counsel the question was repeated by the stenographer.)

THE WITNESS: I certainly would have been aware of it if there had been a cut.

By MR. COLTON:

Q. Do you now recall that there was a cut in the price of steel bars in 1911?

A. I think there was.

Q. A cut that amounted to five or six dollars a ton, to the best of your recollection?

A. I believe it did.

Q. You can not give me any of the quotations that you received from any of the companies for the year 1910 in steel bars, can you, base price?

A. No.

Q. Did those two contracts cover practically your entire requirements in steel bars in 1910?

A. Practically.

Q. You don't know at what price you contracted?

A. No; I made many of them.

Q. You made more than two contracts in 1910 for steel bars?

A. Yes; because I made these contracts for periods of ninety days, and I would renew, and keep on; probably I made four contracts in the year, if I used up all the tonnage. If I did not use up all the tonnage, it would be sometimes extended into the other quarter, but I generally kept under a contract.

Q. You had two contracts running through that year, one with Jones & Laughlin and the other with Lackawanna?

A. Just to get the record right, sometimes I had it with both and sometimes only one.

Q. When you had it with both, do you now recall whether they were at the same price or different prices?

A. They probably were at different prices.

Q. Do you recall?

A. I never made a contract at the same date. When I found one lapsing I would look about to see, and before that contract expired I would have another one; and the condition of the market at the time the other contract was made might have been very different.

Q. The contracts not having been made at the same time? Is that the point?

A. The contracts were not made at the same time. Sometimes they were.

Q. Do you recall any contract that was made at the same time between Jones & Laughlin and the Lackawanna?

A. No, I do not recall.

Q. Coming down to 1911: Do you recall anything definite about what was the base price on any one of your contracts during the year 1911?

A. They differed.

Q. They were made at different times?

A. Probably they were.

Q. In 1912 do you recall anything about the base price on any one of your different contracts in steel bars?

A. I had contracts during that time.

Q. Do you recall anything about the base price on any one of them?

A. No; but it was at the lowest state of the market that year. I made contracts when nobody seemed to like steel.

Q. You do not mean to say that you were sufficiently successful to get all your contracts made at the lowest price for 1912?

A. Fortunately, for the period you speak of, yes.

Q. When did you make your contracts for 1912?

A. When it was at the lowest stage.

Q. When was that?

A. That was somewhere about this time of the year.

Q. In 1913 with what companies have you had contracts in steel bars?

A. Knoxville and T. C. & I. That's all.

Q. What tonnage have you gotten from the Tennessee?

A. I had no contracts for that period with Jones & Laughlin, but I drew some from them.

Q. What tonnage have you gotten from the Tennessee during 1913?

A. Oh, maybe four or five hundred tons, approximately.

Q. Did you buy that on contract?

A. Most of it, yes, sir.

Q. What tonnage did you get from Knoxville?

A. That is iron. I drew very few steel bars from Knoxville.

Q. Then your steel bar purchases for the year 1913 have practically been made from the Tennessee Company?

A. And Jones & Laughlin.

Q. What tonnage did you get from Jones & Laughlin?

A. I don't remember.

Q. That was only some lap-over contract from 1912 that you had from them, was it not?

A. No. That was where I had to get the stuff. The mills were all far behind, and I bought wherever I could get it.

Q. You cannot give me any idea how much tonnage you got from Jones & Laughlin?

A. No; because it was frequently with structurals. I could not separate it and tell you now. It would be a pure guess.

Q. You don't know what your total bar purchases were for the year 1913?

A. I should say about 500 tons to 700 tons.

Q. 500 to 700 tons?

A. About that.

Q. That would make the Tennessee Company's percentage in the neighborhood of about 80 per cent.?

A. For that year, because I had a contract with them.

Q. Take the year 1913.

A. That is the year you are speaking about?

Q. Yes. I want to get to a different product. Take structural steel: where have you gotten your structural steel for 1913?

A. From the Eastern Steel Company and the Phoenix and Carnegie.

Q. What tonnage have you gotten from the Eastern Steel Company in structural?

A. Maybe 400 tons.

Q. That is as nearly as you can guess at it?

A. I haven't got the tonnage separated by mills. It is useless to put me to the test, because I don't know.

Q. That is as near as you can come to it?

A. That is an approximation, pure and simple.

Q. Now, the Phoenix?

A. I bought less from the Phoenix.

Q. Can't you approximate it at all?

A. A couple of hundred tons, maybe.

Q. The Carnegie?

and

A. About 300 tons, approximately.

Q. Do you know whether it is more or less than you got from the Eastern?

A. No. Some of those were very much delayed in shipment. I don't know whether they ran in for the specifications for 1912, and got in in 1913 or not, but some of them were six and eight months behind in shipments.

Q. Carnegie's shipments were very much delayed?

A. Yes. They were congested.

Q. What were your total purchases in structural material in 1912?

A. I don't know.

Q. Can you give me any approximation of it?

A. I would rather give you the figures, because I hate to go on record with a guess at this tonnage.

Q. You have already testified on this?

A. I testified as an approximation purely.

Q. That is all I asked for.

A. I don't know.

Q. Can you not give me an approximation?

A. No. I got it in from so many mills at different times that I cannot separate it and say how much I got in 1913.

Q. What different mills did you get it from in 1912?

A. I just told you. The same mills for 1912 and 1913.

Q. The Eastern, Phoenix and Carnegie?

A. And occasionally from Jones & Laughlin.

Q. You do not now recall whether you got anything from Jones & Laughlin or not in 1912, do you?

A. Oh, yes. I have gotten something from them every year.

Q. This is in structural steel?

A. Yes.

Q. Can you give me any idea what you got from the Eastern in 1912?

A. No; but I did not get as much as I did in 1913.

Q. How about the Phoenix?

A. I think I got more.

Q. How about the Carnegie?

A. Well, not as much as from the others.

Q. Not as much as from which others?

A. The two I just named.

Q. The two combined?

A. Yes; the two combined.

Q. How much from Jones & Laughlin?

A. I don't know.

Q. You don't know whether you got 500 tons all told or 600 tons all told, or 700 tons all told?

A. Not without looking at the books.

Q. Could you tell me, within 300 tons how much you got for 1912, without looking at the books?

A. I might; but you see there is a great deal of that mixed with sundry orders, and I cannot separate them and tell you in this way. If you had told me about it, I would have had the figures. I will furnish them now, if you want them.

Q. I want your best recollection. It is taking a great deal of time as it is. You said you thought you could give it within 300 tons. Suppose you give your total purchases within 300 tons.

A. Of structurals?

Q. Yes; for 1912.

MR. REED: If Mr. Porch says he is willing to bring the actual figures here, Mr. Colton, is not that the best way to get the information?

MR. COLTON: You have examined him generally in regard to this subject, and I have a right to test his memory on this.

MR. REED: And you have a right to be discourteous to me, but I hope you will wait until I finish my suggestion. If you want this accurately, the best way to get it is from the figures which he says he can furnish. If you want to test his memory, he has already admitted, about 50 times, that he does not remember these details. What is the possible use of going over it any further?

MR. COLTON: I want both his best recollection and also to test his memory, which is proper on cross examination.

MR. REED: It seems to me to be a great waste of time.

THE WITNESS: I had these shipments come in from these

different mills during this long range of time which you have named, and after the transaction was completed——

By Mr. Colton:

Q. This is not a great range of time; it is just for 1912 that I am asking now.

A. More or less like 1913.

Q. Your total tonnage would be more or less like 1913?

A. Yes.

Q. Now, for 1911 what was your tonnage?

A. I don't remember.

Q. For 1910?

A. The same answer.

Q. In 1910 were you purchasing from one particular company in structural material, or do you recall?

A. I was purchasing wherever I could get it.

Q. In 1909 what was your tonnage?

A. I don't remember.

Q. What companies did you purchase from in 1909?

A. That is about the time, somewhere about the time, that we were purchasing structurals almost entirely from Jones & Laughlin.

Q. Then I won't go back of 1909. You do not recall the tonnage back of 1909, either, do you, or for any of the years?

A. I do not.

Q. Or for the period as a whole?

A. No, sir.

Q. Take sheets: What was your tonnage in 1913?

A. I don't remember.

Q. Can you not give me any idea?

A. I offer my books, and will give you the tonnage exactly. I cannot separate those things and tell you accurately, and I hate to go on record with a statement that is not more or less correct. I do not recall those tonnages.

Q. You cannot give the tonnages in anything for 1913, of any one of your different products, with any accuracy; is that correct?

A. I bought all the tonnage that was received by our different departments in five different warehouses. There are

other people who can testify to that more accurately than I can, because it came directly and immediately under their supervision. The aggregate of that tonnage it was not required of me to carry in my mind, and I cannot give it to you.

Q. You say it has come more directly under the supervision of other people, as to the different quantities of steel that you purchased?

A. The receiving of it. They did not purchase it. I bought it. As a rule I completed our contracts. Some of the contracts may have held over a bit, but as a rule I completed the tonnage.

Q. Take the tonnage you bought in 1913. Can you give me what tonnage you bought in sheets in 1913?

A. I cannot, without looking up the records.

Q. What mills did you purchase sheets from in 1913?

A. The Portsmouth mostly, because they were in a position to give us better shipments, and therefore I think most of our tonnage came from Portsmouth.

Q. In 1912 what mills did you purchase from?

A. We were always a heavy buyer from Portsmouth, on account of prompt deliveries.

Q. Could you not give me any estimate at all as to the tonnage of sheets purchased——

A. I offer to furnish it. I will take that stand. I will give you the tonnage, and give it to you right, but I will not guess at it.

Q. You do not carry it in your mind at all?

A. I have no occasion to carry it in my mind. I keep the books down there that carry that tonnage, that will show just what the tonnage was.

Q. Any percentage I might ask you would be a guess, would it?

A. It would. I said that I thought more or less twenty per cent.

Q. But you don't want to guess for me now in regard to how that was divided up?

A. No; I would rather not.

Q. As it would be a guess?

A. It would be a guess.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. When you were acting as the exclusive representative of Jones & Laughlin or the Lackawanna, or such concerns, in the sale of bars or structural shapes, did you, as the salesman of their products, find competition?

A. Yes, sir.

Q. With other people selling similar products of other mills?

A. Yes.

Q. And you can remember that, I suppose, without remembering the particular details?

A. I remember it well enough, and it was one of the reasons why we severed the connection.

Q. And I daresay that you cannot remember the particular tonnages and dates and prices?

A. I do not remember the tonnages or the dates, and I do not remember the exact time that we severed the arrangement, because it was not at a fixed time. It gradually severed itself. Market conditions forced it.

Q. I daresay you can remember eating lunch without remembering each particular bite that you took?

A. I could not tell you when I ate lunch last Thursday, to save my life.

MR. COLTON: You see, Mr. Reed, he can not tell when he ate lunch, even.

MR. REED: That is all.

WENDELL P. SIMPSON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. New Orleans.

Q. What is your occupation?

A. Secretary of the C. T. Patterson Company, Limited.

Q. How long have you been secretary and treasurer of that company?

A. Since the organization of the company, December 1, 1898.

Q. Who does the buying, the important buying, for that company?

A. Myself.

Q. Does it deal in steel materials?

A. Yes; our business is principally mill supplies and machinery; we handle iron and steel products.

Q. You are jobbers in steel products, among other things?

A. With other things, in connection with other lines.

Q. Do you buy any steel bars?

A. Yes.

Q. About how many tons in a year?

A. We would buy about 400 tons of steel bars.

Q. During the past five or six years what percentage of your steel bars have you bought from the Steel Corporation?

A. In steel bars, I should say we had bought about ten to fifteen per cent.; about ten per cent.

Q. Then you buy some iron bars also?

A. We buy iron bars also.

Q. Taking those into consideration, the percentage would be smaller?

A. The percentage would be very small, yes.

Q. Are the iron bars competitive with steel bars?

A. Very largely so.

Q. And used for the same purpose?

A. Very largely so. We will alternate our buying of iron and steel bars, according to the condition of the market. At times, when steel is selling under iron bars, we will buy more steel, and when iron is selling under steel, we buy more iron, because the relative uses of the two products, especially in flats, can be changed.

Q. Then, taking all of your principal purchases together, both iron and steel, what percentage do you buy from the Steel Corporation?

A. In bar purchases, taking iron and steel together, I should not think it would average over five to seven per cent.

Q. The United States Steel Corporation makes no iron bars, so far as you know?

A. So far as I know, it doesn't make iron bars.

Q. Do you buy wire products too?

A. Yes; we buy wire nails and wire fencing, and we buy barbed wire and plain wire.

Q. About how many tons in the course of a year, of wire products?

A. We would average about 750 to 1,000 tons.

Q. And what part of that do you buy from the Steel Corporation?

A. We buy a larger portion of our wire nails from the Corporation than we do in bars; our wire nail purchases from the Corporation would run about 50 per cent.

Q. You buy some corrugated sheets, I believe?

A. We buy corrugated sheets.

Q. How many tons?

A. About 400 to 500 tons, I should judge; maybe as high as 600 tons.

Q. What percentage of your sheets do you get from the Steel Corporation?

A. I should not think we would average over 20 to 25 per cent.

Q. You buy some pipe too?

A. Oh, yes.

Q. How many tons?

A. About 800 to 1,000 tons.

Q. What percentage of that do you get from the National

Tube Company; that is, the United States Steel Corporation?

A. About one-third.

Q. Are all of these purchases made on a competitive basis?

A. Strictly so.

Q. Tell us the names of some of the competitors in steel bars that the United States Steel Corporation has.

A. The Standard Steel Company; the Birmingham, now the Gulf States Steel Company, formerly the Southern Iron & Steel Company; and the Republic Iron & Steel Company; Jones & Laughlin, and the Cambria Steel Company.

Q. Does the Atlanta Steel Company come over this far?

A. I have not been buying anything from Atlanta, although we have had prices at different times.

Q. Do they solicit your business?

A. Oh, yes.

Q. The Knoxville Steel Company too?

A. The Knoxville Iron Works; we at times get steel from them in connection with iron bars, to complete carloads.

Q. What competitors has the Steel corporation in wire products? Speaking now of your business.

A. Well, there is the Norton Iron Works.

Q. What do they make?

A. They make wire nails; and the Standard Steel Company, now the Gulf States Steel Company, of Birmingham, making plain wire, barbed wire and nails, and fencing; and the Pittsburgh Steel Company and one or two others.

Q. And the Atlanta Steel Company?

A. They have quoted me on nails, but I have not placed any nail orders with them; the Jones & Laughlin Steel Company, from their Aliquippa plant; they quote very frequently on nails through their former manager, Mr. Daniels, and now through their St. Louis office since they changed.

Q. Have the Cambria Steel Company been after your business too?

A. Yes, that is, their Atlanta office, F. I. Stone & Company, I think, is the proper name.

Q. Will you name some of the competitors in corrugated sheets that solicit your business?

A. Yes; there is the La Belle Iron Works, the Portsmouth Steel Company, and the Thomas Steel Company.

Q. Where are they?

A. They are at Youngstown.

Q. Now the Brier Hill Steel Company?

A. Now the Brier Hill Steel Company, and we have bought sheets in the past from the Sheet Metal Manufacturing Company at Niles, and several others up through the Niles and Youngstown districts, and the Wheeling district, the Wheeling Corrugating Company.

Q. Does the Andrews Steel Company solicit your business here?

A. No, sir.

Q. Tell us the names, now, of some competitors on pipe that solicit your business.

A. There is the La Belle Iron Works, and Spang, Chalfant & Company.

Q. And the Youngstown Sheet & Tube Company?

A. I do not deal with them very largely.

Q. Have they solicited your business?

A. In the past, yes; not in the last few months.

Q. The Mark Manufacturing Company?

A. The Mark Manufacturing Company, yes; I had forgotten them. Yes, the Mark Manufacturing Company, very strongly.

Q. Do you get quotations from these different competitors in these products before you place your orders?

A. Oh, yes; and I forgot a very important one—the Republic Iron & Steel Company.

Q. On pipe?

A. On pipe, yes.

Q. How do you find the quotations that are made to you by these different mills? Do those quotations come in all alike, or do they vary?

A. They very often vary; they vary more in times like the present, when the mill conditions are a little slack. When deliveries are from four to six months back, why, the prices are firmer and more on a level, but as a general thing the prices vary.

Q. When business is scarce they are keener to get it than when it is not scarce?

A. Very much keener.

Q. And they show that keenness by cutting prices, do they?

A. By cutting prices, yes.

Q. How long has that been the case?

A. That has always been the case since we have been purchasing goods of that kind.

Q. Has competition for your business in these products been active or otherwise?

A. Extremely active.

Q. Has that been so throughout the past ten years also?

A. Yes.

Q. I notice that you do not give a very large proportion of your business in bars or sheets or pipe to the United States Steel Corporation; is that because of any personal feeling against the company?

A. No; to the contrary, it has embarrassed me a little at times because both Mr. Weidman and Mr. Mills are both close personal friends of mine, and I have not been able to give them the share of the business that I would like to, from a personal standpoint.

Q. Who is Mr. Weidman?

A. Manager of the National Tube Company.

Q. Who is Mr. Mills?

A. Mr. Mills is manager of the Carnegie Steel Company, the Illinois Steel and the American Sheet & Tin Plate.

Q. You mean New Orleans managers for those companies?

A. Yes.

Q. And they are the sales representatives with whom you come in contact?

A. With whom I come in contact, yes.

Q. Why, because of your personal friendship for these gentlemen, have you not been able to give them a larger proportion of your business?

A. Their prices have not been in line at all times.

Q. You mean to say that they have competition which dares to cut the price?

A. Their prices have usually been higher, and when the

prices have been lower, they have been favored with the business, and very often on an equal basis; we have endeavored to place the business, but ordinarily their prices on the products I have mentioned have been higher than I was able to buy them for in the open market.

Q. How do you find the Steel Corporation, as to living up to their promises of delivery?

A. I have found it very satisfactory; I have no complaint to offer.

Q. How have you found them as to quality?

A. Very satisfactory.

Q. Do they comply with specifications, from your experience with them?

A. Strictly so.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. When did you begin to purchase pipe?

A. We started to purchase material along that line about 1903; about 1902 or 1903.

Q. And by "pipe" you include tubes in that general heading?

A. Yes.

Q. From what companies did you purchase your pipe in 1902 or 1903, whatever year you began to purchase?

A. At that time we purchased pipe through the National Tube Company. We may not have gone into pipe as early as that. We did not; you will have to advance that year a little in pipe; it was at least 1905 on pipe. On the other commodities it was earlier.

Q. Now, we have got as far as the National Tube Company. Is that the only company you now recall that you got from in 1905? I would rather, first, that you give your recollection.

A. Yes; I was just getting a little memorandum here.

Q. I would rather have you give your recollection at present, and then you can refer to your memorandum later.

A. Yes; the National Tube Company, our first pipe purchases were from the National Tube Company.

Q. How long did that continue?

A. Oh, our pipe purchases at first were not very heavy, but that may have continued during the course of a year.

Q. Substantially all of it would come from the National Tube Company those years; that is your recollection?

A. Yes.

Q. What is the first year you bought any substantial quantity on the outside?

A. From about 1906 up.

Q. In 1906 what other company did you buy from outside of the National Tube Company?

A. Well, Spang, Chalfant & Company.

Q. Any other?

A. I don't recall any other right now on pipe, but later we bought from the National Tube Company; Spang, Chalfant, and the Republic Iron & Steel, in the last few years.

Q. Do you recall the proportion that you gave Spang, Chalfant and the National Tube Company in 1906?

A. In the year 1906? No, sir.

Q. Could you give it approximately for the National Tube Company?

A. On pipe specifically for that one year, I would not care to mention it without reference to a memorandum.

Q. Suppose we take 1906, 1907 and 1908. Could you give me the percentage for the National Tube Company for those three years?

A. I can give you the percentage of our entire purchases from independent companies for the period, say, from 1903 to 1906 and 1907; also 1908 to 1913, our purchases, taking pipe and everything.

Q. I am asking about pipe now.

A. Yes; all right.

Q. Can you give me that for pipe?

A. Not specifically on that year; no, sir.

Q. Can you give it approximately for those three years?

A. No.

Q. You can not give any approximation?

A. No, sir; I would not care to do it, as long as I can give it to you accurately. My position on that is this—just excuse me a minute—my position on that is this: I do not think you should ask me to give you a guess when I can give you something definite. I may be wrong about that.

Q. Well, have you prepared any figures of the amount of pipe that you purchased in the years 1905 to 1908, inclusive, from the National Tube Company?

A. Approximately I have; not with the attempt to get it down to the last dollar or the last cent.

Q. Just a moment. I have not asked you to look at anything. I asked you whether you had prepared anything. Did you prepare these figures yourself for pipe?

A. I had our bookkeeper make them up, and I looked over them.

Q. And that is the only preparation you made on the subject?

A. Yes.

Q. I am taking your memory on that, and you haven't any memory on that subject, have you?

A. You put questions, sir, in a way that I do not regard as strictly proper.

Q. Well, have you any memory as to the approximate amount of pipe that you purchased from the National Tube Company from 1905 to 1908, inclusive?

A. No, I would not say that I could give you that; I can get it for you accurately.

Q. You have not made any memorandum other than through a bookkeeper, have you?

A. Sir?

Q. You have not personally made any memorandum on the subject?

A. No.

Q. And you are now unwilling to give me any estimate of the percentage you got in pipe from the National Tube Company for the years 1905 to 1908, inclusive?

A. Yes.

Q. And you are unwilling to give me any estimate for 1909?

A. For 1909, I should think it would be about one-third.

Q. And 1910?

A. About the same.

Q. Have you any recollection, independent of this memorandum, that was made by the bookkeeper, as to the tonnages for 1908 and 1909?

A. Yes, I have that; I judge the tonnage on pipe at that time was about 500 tons. We did not really go into the pipe business very heavily; we have never attempted to go into the heavy pipe business. We simply carry pipe as an accommodation.

Q. The small sizes of pipe?

A. No, up to eight inches, simply for jobbing stocks. We are not classed as steam-fitting jobbers, like some of the other houses.

Q. As I understand it, it is a sort of incident of your business?

A. Exactly so; that is recent. In those years, when you are putting it specifically on certain years, 1906 and 1907, that was when we started to put in pipe, those years, and I do not recall the specific tonnages on those things; the way you want to take this testimony, I do not know, but I do not think you should ask me to give you a guess on it when I can get you something else.

Q. In 1913, about what was your tonnage in pipe?

A. 1913?

Q. Yes.

A. 1913, about 1,000 tons.

Q. What contracts did you make with the National Tube Company in 1913?

A. We made contracts for pipe with them.

Q. What was the first one you made?

A. For the first quarter, from January to March 31st.

Q. What tonnage was there in that?

A. I don't recall specifically. We usually made those contacts for about 100 tons.

Q. Did you make that contract yourself?

A. Yes.

Q. You don't recall the tonnage?

A. Not specifically; we make those with a minimum and a maximum tonnage. If we put 100 tons minimum, we usually specify 125 tons maximum, or from 100 to 150.

Q. Do you recall the price that you paid them on that purchase?

A. I think the base at that time was 81 at Pittsburgh; 81 and 5. I stated the base 81; of course the 5 differential is always understood.

Q. Eighty-one per cent. off the list price?

A. Eighty-one per cent. off the list price, yes.

Q. And the 5 differential?

A. That was 5 per cent. from the net. For instance, if you had 81 from a dollar, that would leave 19 on; then it would be 5 on 19, or 95 per cent., making net $18.05 on the $100 list.

Q. Did you make another contract for that same period?

A. Yes. We usually carry a contract on pipe with the Republic Iron & Steel Company and the Spang, Chalfant Company of Pittsburgh.

Q. From January to March 31st you had one with the Republic?

A. Yes.

Q. What was your base with the Republic?

A. The contract base on those three contracts was the same at that time.

Q. What was the differential?

A. The same differential. I will say this, that at times we have had a confidential price beyond our contract price.

Q. At times?

A. Yes.

Q. Now, take your steel bars; what is the first year you purchased any substantial quantity of steel bars, Mr. Simpson?

A. Well, we bought steel bars more or less since 1903.

Q. Since 1903 or 1905? I mean, was it about the same time you began to buy pipe?

A. No, we had handled bars much before pipe; we did not handle pipe until we were forced into it. I am sorry we are handling it now.

Q. Steel bars; you began handling them in 1903? Could you give me any approximation of the tonnage you handled the first year?

A. I should think about along toward that time we were handling about 200 tons.

Q. What company did you purchase your steel bars from?

A. At that time we were dealing with the Jones & Laughlin Steel Company, the Carnegie Steel Company, and we were dealing with the Birmingham mills; I think it was the Birmingham Rolling Mill Company.

Q. Do you know whether they had gone into the Tennessee at that time or not?

A. No, sir; that is, I do not know what year it went into the Tennessee; I do not know definitely that it did go into the Tennessee, but I know early we had bought a little stuff from the Birmingham mill there, and of course that must have been before it went into the T. C. I.

Q. I was just trying to get your personal knowledge. You do not remember, from personal knowledge, either that it was in or out? That is, you have not any personal knowledge; it was a matter of trade reputation either way?

A. Yes, that is so.

Q. And from the point of view of trade reputation, you think it was out of the Tennessee at that time?

A. Yes.

Q. And from the point of view of trade reputation, it went into the Tennessee at a later date?

A. I could not give you that information because I do not know; I do not know whether it combined with the T. C. I. or not.

Q. Do you have any idea what tonnage you bought from Jones & Laughlin the first year, or the percentage you got from Jones & Laughlin the first year you got bars?

A. No, sir; but I do know this: I know that our average purchases from 1903 to 1906, taking these different lines that we have handled, it would average 50 per cent. at that time.

Q. 50 per cent. from what?

A. 50 per cent. of bar steel and pipe, track spikes, track bolts, and the steel material that is made by the United States Steel Corporation and its allied interests.

Q. 50 per cent. from what company? I have not quite caught that.

A. I say, taking the four companies that we have dealt with within the Corporation, that is, the American Sheet & Tin Plate Company, the American Steel & Wire Company, the Carnegie Company and the National Tube Company at that time—taking the products that we bought from those mills and the products that we bought from the independents, say about 50 per cent.

Q. You are basing that, however, on the memorandum prepared by your bookkeeper and not on recollection of your own? Is that correct?

A. When I refreshed my memory on the percentage of the purchases, I looked over my ledger records enough to know that they were right.

Q. You do not mean to say that you have, now, a recollection of the different particular items that go to make up that total?

A. What is that?

Q. I say, you do not have any recollection of the different items that go to make up that total, do you?

A. Explain yourself more fully.

Q. I will ask you questions. Can you give me your bar purchases from the Carnegie Company for any year from 1903 to 1906?

A. From Carnegie?

Q. Yes.

A. That is, bars and light shapes. I cannot distinguish from memory what was bars and what may have been shapes in those years. We never carried shapes in stock, but we have drawn on the warehouse stocks of the mills, like those of the Carnegie Steel Company in the warehouse at Chicago, at dif-

ferent times, for quick shipments; but at that time I should judge that nearly all of our business with the Carnegie was on bars.

Q. You cannot give me, offhand, what you got from Carnegie in bars, approximately in tonnage?

A. No; I cannot do that. That runs back eight or ten years, you know.

Q. Are your books kept annually? Do you have annual books showing the tonnage gotten from different companies annually?

A. The memoranda I looked over, my dear sir, are from the record of what we have paid in dollars and cents. We run our records on so much money. Of course, you are speaking of tonnage, and when I speak of tonnage, I am simply reducing, by an approximate amount, what the money amounted to in tonnage. We carry our books on a dollars and cents basis, and when I make the record, I make it that we have paid $10,000 or $20,000, or $50,000 or $100,000. Is that clear?

Q. Yes. And as I understand it, you have made no estimate in tonnage at all?

MR. REED: He has just said that he had.

By MR. COLTON:

Q. Either yourself or through your bookkeeper.

MR. REED: He has just said that he did.

THE WITNESS: My dear sir, it is this way: If steel sells at $1.70 base, New Orleans——

By MR. COLTON:

Q. What sort of steel?

A. Machined steel, soft Bessemer steel; we would pay the company so much money, it is very readily seen how much tonange that money represents.

Q. It is selling at that at what time in the year?

A. I merely used a valuation that might be, as an illustration. Steel here, as I recall it, the early part of 1912, sold around $1.65 to $1.70 at New Orleans. That represented $1.40 to $1.35 Pittsburgh. So that is simply a question of your

having your information in dollars and cents—just simply a question of multiplication.

Q. How much money did you pay Carnegie in steel bars, if you recall, for any one of those different years, if you have any independent recollection of what you paid? Take steel bars and light structurals combined, and give it for any year, if you have any recollection on the subject.

A. I should judge about that time we had paid Carnegie $12,000 to $15,000.

Q. In 1903?

A. Oh, no, not in 1903. You said during that period.

Q. I said for any year.

A. I beg your pardon, then. I misunderstood you.

Q. Could you give the amount you paid Carnegie for any year?

A. Not right offhand.

Q. Then you have no independent recollection of the amount you paid Carnegie for the different years? Is that correct?

A. Back in those years; yes, sir. My memory probably would serve me a little better in the later years. You are going back say, 12 years; and to remember the specific figures is a little difficult. I can give you the accurate figures on that, and I offer anything you want in that line, sir; but I cannot tell you, as a whole, although I know that in those lines we had averaged 50 per cent.

Q. In 1903 did you get quotations from any other companies than these three you have named?

A. We have never bought any material, have never made a contract that we did not get the market from all available sources.

Q. If you have any recollection about what companies you did get quotations from in 1903, will you give it to me, on steel bars?

A. I cannot remember a specific concern that we have written to on bars in 1903. The situation is this: With a buyer nearly all the time, constantly, there are factory and mill representatives calling upon you, and a great many of those

prices are quoted verbally. You are quoted prices by offices located here, and very often by long distance telephone, when there are changes in the market. I am very often quoted prices from Birmingham and from Atlanta and from St. Louis by long distance telephone.

Q. When there is a change in the market price?

A. When there is a change in the market price, or about to be a change in the price; yes, sir.

Q. The market price continuing the same frequently for several months at a time, in a given product?

A. Oh, yes; that is true.

Q. Did you buy any bars from the Tennessee Company before 1907?

A. No, sir.

Q. Not unless the Birmingham Company became a part of it during that period, I suppose you mean?

A. Yes, sir. We did not have the T. C. & I. on our books before 1906 or 1907.

Q. Before 1906 or 1907?

A. Yes.

Q. You do not recall which year you got them on your books?

A. No, sir; not specifically. I can get you that, however.

Q. Well, you see we already have a record 19,000 pages long.

MR. REED: And rapidly getting longer.

MR. COLTON: And rapidly getting longer.

By MR. COLTON:

Q. Wire nails: when did you begin to purchase those?

A. Wire nails? Just about the same period.

Q. Just about the same period as which?

A. Along towards 1903 or 1904.

Q. From what company did you purchase wire nails in 1903?

A. The Norton Iron Works.

Q. Any other company?

A. I presume we purchased nails at that time through the American Steel & Wire Company also.

Q. What companies did you get quotations from in wire nails in 1903?

A. I don't recall in 1903.

Q. Take 1904.

A. The same thing would apply there.

Q. You could not give me the percentage in 1904 that you got from the American Steel & Wire Company and the percentage that you got from Norton & Company?

A. The percentage at that time ran about half and half. We probably bought more from the Norton Company at that time.

Q. In 1905 what different companies did you get quotations from on wire nails?

A. That would average about the same, until later, when the Birmingham nail plant started up there. In the last few years we have been buying very largely from the Standard Steel Company. Here we keep posted, in one way through the purchasing agencies, both in the Pittsburgh District and through New York, we keep posted on the quick changes of the market, through the direct representatives in the Pittsburgh and the New York markets.

Q. I don't think you caught my question, and I will ask the stenographer to repeat it.

(The stenographer repeated the question referred to as follows:)

"Q. In 1905 what different companies did you get quotations from on wire nails?"

THE WITNESS: As I recall it now it would be the Norton Iron Works.

By MR. COLTON:

Q. Is that the only one you recall?

A. That is the only one I recall. Possibly the Pittsburgh Steel Company.

Q. Do you mean to include the American Steel & Wire Company in 1905 with the Norton Iron Works?

A. Oh, yes; yes.

Q. You are taking that as a matter of course, and thought I was asking about the things outside of the Corporation?

A. That is right; simply because you are working on that line.

Q. Could you give me the percentage, the way it was divided, between the American Steel & Wire Company and the Norton Iron Works in 1905?

A. I should think it would run about half and half.

Q. In 1906, would your answer be the same?

A. Yes, sir.

Q. As to 1907 would your answer be the same?

A. Well, yes; that would be the same.

Q. In 1908 would it be the same?

A. Yes.

Q. In 1909?

A. Well, along about that time, 1909 or 1910, the old Southern Iron & Steel Company, later succeeded by the Standard Steel, became quite a factor in the business. That was probably in 1910.

Q. And in 1910 the Southern came in there also?

A. Yes, sir.

Q. Can you give me how it was divided in 1910 between the Southern and the American Steel & Wire?

A. We dropped out buying Norton nails, and bought between the Southern and the American Steel & Wire Company.

Q. Was the percentage about the same?

A. The percentage would be just about the same, yes; our percentage of nail and wire purchased between the independent mills and the Corporation is larger than in other commodities that we buy. I would say this: Taking the percentage of purchases between the four Corporation plants and the independent plants from 1908 to 1914, it was 25 per cent.

MR. COLTON: I object to that as volunteered. I do not know what it means.

By MR. COLTON:

Q. Take wire fencing: What year did you begin to buy wire fencing?

A. Just about three years ago.

Q. One other question: What was the first year you ever got quotations from the Cambria on wire nails, if ever?

A. I don't recall the first year from Cambria, but the quotations from Jones & Laughlin on nails were when the Aliquippa plant was started up. I think that Aliquippa plant was started two or three years ago.

Q. Wire fencing you started buying three years ago?

A. About three years ago. We have bought all our wire fencing from the Standard Steel Company, now the Gulf States Steel Company, of Birmingham.

Q. Do they have a special brand of fencing?

A. All mills have their own special brands. They all manufacture under a different brand.

Q. I asked you whether this was a special brand of theirs. Is it?

A. They brand their fencing "The Southern fencing."

Q. Is it a plain wire fencing?

A. It is a plain wire fencing.

Q. Have you bought any barbed wire?

A. Yes, sir.

Q. When did you begin to buy barbed wire?

A. About four or five years ago; that is, for regular stock wire.

Q. Where do you get your barbed wire?

A. We get our barbed wire between the Standard Steel Company and the American Steel & Wire Company.

Q. What was the first year you bought barbed wire?

A. I should say it was about four to five years ago.

Q. What year was that?

A. Five years from 1914 would be 1909.

Q. In 1909? That is your best recollection?

A. Yes.

Q. What percentage did you get from the American Steel & Wire Company in 1909?

A. Our percentage right straight along there has averaged about 50 and 50. We occasionally will get a carload from some other mill.

Q. Do you recall what price you paid the American Steel & Wire Company for its barbed wire—base price?

A. At what period?

Q. Say in 1909?

A. No, I do not recall the exact price in 1909.

Q. Suppose we take 1913: Did you run your contract for 90 days?

A. We ran our contracts on 90 days. In the steel and wire contracts, if you have not specified the portion, they usually run it over a little.

Q. Suppose you give me your first contract with the American Steel & Wire Company in barbed wire for 1913; that would be from January to when?

A. That would be from January to March 31.

Q. Very well; from January to March 31 what was your base price?

A. Let us see. The base price on nails, now, is $1.74 to $1.79. They were higher then. The price at that time, I should think, was either $1.99, or possibly $2.04.

Q. One or the other of those two figures?

A. I think so, according to the best of my recollection.

Q. And you figure from nails to barbed wire for base?

A. From the nail base, yes.

Q. Practically all wire products are figured from the nail base?

A. Yes. The barbed wire and the plain wire will take so much—I think it is 20 cents under the base for plain wire.

Q. And that is the American Steel & Wire Company——

A. When I speak of those figures I mean f. o. b. New Orleans.

Q. What was your base price with the Southern Company —was that the other one?

A. The Standard Steel.

Q. The Standard Steel Company; what was your base price with that company?

A. Our price on the Standard Steel was five cents a package under the American Steel & Wire price.

Q. Five cents a package?

A. Five cents a keg, a hundred pounds. Nails are put up in 100-pound kegs.

Q. Did you have a discount from the American Steel & Wire Company for cash?

A. Two per cent., applying to both.

MR. REED: Applying to both what?

THE WITNESS: To both the contracts with the American Steel & Wire Company and the Standard Steel, the independent plant.

MR. REED: Both allowed the same cash discount?

THE WITNESS: Yes; both allowed the same cash discount. The terms are 60 days net, or two per cent. ten days.

By MR. COLTON:

Q. In 1912 can you give me your first contract for that year, the prices?

A. Our contracts always run from January 1 to March 31, and then each subsequent quarter; then from April 1 to June 30, and so forth, each quarter. Nails, as I recall it, were higher the early part of 1913 than they were in 1912. I should think in 1912 the price was $1.89 or $1.94. Nails change so very frequently in price that to remember back for two or three years what it was at a specified quarter is a very difficult matter. The average on nails, however, has been between what the price is now, $1.74, up to the high mark of $2.04, which, it is my impression, was the early part of 1913. I do not recall their having been higher than $2.04; that is, New Orleans.

Q. You do not recall, then, what you paid the American Steel & Wire Company for the first contract in 1912?

A. No more than I have told you there. I think that price was from $1.89 to $1.94.

Q. Do you recall what you paid the Southern Company for the first contract?

A. We always had an arrangement with the Southern Company of five cents per hundred pounds under our contract.

Q. Under the American's price?

A. I would not put it that way. We make a contract at a specified amount. Then we get five per cent.—I mean we deduct five cents—not five per cent., but five cents per hundred pounds, I should say.

Q. Your contract price, as I understand it, with the American Wire Company and the Southern Company was the same, except that by an arrangement which you had you deduct that as a sort of rebate?

A. Let me say this: In nails and wire, while you may make a specific contract from January 1 to March 31, it is my experience that we have carried those contracts over, when we have not specified the full amount of the tonnage, sometimes for 30 days or 60 days. In that way, in purchasing beyond the period of your contract, the market might be up ten cents; so we are protected at the contract price until that tonnage has expired, though you do not always run the same. As nearly as I can recall that period which you have mentioned, they were the same, and we received five cents per hundred pounds beyond the contract price. In other words, we purchased that much less.

Q. As I understand, according to the best of your recollection, the contract price of the American Steel & Wire Company and the Southern Company were at that time the same, although they are not at all times the same. Is that what you mean?

A. That is the idea; yes, sir.

MR. COLTON: That is all.

MR. REED: That is all.

(Whereupon an adjournment was taken until to-morrow, Wednesday, January 14, 1914, at 10:30 o'clock a. m.)

ONE HUNDRED AND FORTY-FIRST DAY.

MAISON BLANCHE,
New Orleans, Louisiana,

Wednesday, January 14, 1914.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the Defendants, MR. REED.

ROSS G. WILDER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Wilder?

A. Beaumont, Texas.

Q. How long have you lived in Beaumont?

A. Seventeen years.

Q. What is your present occupation there?

A. I am in the hardware and supply business.

Q. Can you give us the names of the companies with which you have been connected during your seventeen years, and the offices that you have held in each of the companies?

MR. COLTON: May I suggest that he give us the dates at the same time?

MR. REED: Yes.

THE WITNESS: For thirteen years I was with the E. L. Wilson Hardware Company. The first three years in the capacity of shipping clerk and traveling salesman; the last ten years in the capacity of buyer and manager of sales. Then for twelve months at San Antonio, Texas. This was in the same line of business. For three years and a half as

vice-president in charge of purchases of the Norvall-Wilder Hardware Company.

By Mr. Reed:

Q. What position have you occupied with that company?

A. Vice-president in charge of the buying and selling end.

Q. The E. L. Wilson Hardware Company and the Norvall-Wilder Hardware Company are both located at Beaumont, are they not?

A. Yes, sir.

Q. Then your residence at Beaumont has been continuous except for one year which you spent in San Antonio?

A. That is correct.

Q. You have been familiar with steel buying throughout the past fifteen years?

A. Yes, sir.

Q. What kind of steel materials does the Norvall-Wilder Hardware Company buy?

A. Bars, plates, structural, sheets, pipes, tubes, nails, wire and fence.

Q. Do your purchases of structural steel amount to any considerable portion?

A. No, sir; that is a small portion.

Q. Plates, bars, tubular products and wire products are the big purchases?

A. Yes, sir.

Q. Let us take plates first; and by plates do you mean tank plates?

A. Yes; I mean entirely tank plates.

Q. Do you buy sheet steel too?

A. Yes, sir.

Q. Taking plates and sheets together, what tonnage do you buy annually?

A. Between 800 and 1,000 tons.

Q. What part of that is sheets of 13 gauge or thinner?

A. About 50 per cent.

Q. Do you buy on a competitive basis, Mr. Wilder?

A. Always.

Q. Will you tell us the names of some competitors for

your business in the heavier sizes of plates; that is, 12 gauge and thicker?

A. The La Belle Iron Works, Lackawanna, Jones & Laughlin, Cambria, Carnegie Steel and Tennessee Coal, Iron & Railroad Company.

Q. Do Worth Brothers quote to you on plates?

A. Yes; Worth Brothers.

Q. Portsmouth?

A. We get quotations from Portsmouth.

Q. Inland?

A. Only on light sheets.

Q. From which company or companies do you buy the greater part of your heavier sizes of plates?

A. Our greatest tonnage comes from Cambria.

Q. Do you buy much from Jones & Laughlin?

A. They are the next largest.

Q. Next to Cambria?

A. Yes.

Q. What percentage of all of your heaviest plates have you been buying from the United States Steel Corporation or its subsidiaries; that is, from Carnegie, Illinois Steel and T. C. & I.?

MR. COLTON: May I ask you to specify the time, there? You are speaking just of the present?

MR. REED: I am speaking of the present now.

THE WITNESS: You have reference to the Norvall-Wilder Hardware Company? That is three years and a half. Is that the way you want it?

By MR. REED:

Q. Yes. I will ask you as to the purchases of the company with which you are now connected?

A. Approximately 15 to 20 per cent.

Q. From the Steel Corporation?

A. Yes.

Q. Do the quotations that you get from the competing companies on plates vary, or are they all alike?

A. They always vary. I have known them, though, to be practically all alike.

Q. Is that usual or unusual?

A. Rather unusual.

Q. How long has that been so, Mr. Wilder, that quotations have varied in that fashion?

A. Ever since we have been buying plates—or since I have been buying plates, rather.

Q. Ever since your personal connection with buying began?

A. Yes. Now, don't get that wrong; in my early experience with the Wilson Company we did not carry plates.

Q. How far back does your experience in buying plates extend?

A. Eight years ago was my first experience in plates.

Q. Now, coming to light sheets; that is, 13 gauge and thinner; do you buy both plain and corrugated sheets?

A. Yes, and galvanized.

Q. Both black and galvanized?

A. Yes.

Q. Is there competition for your business in sheets too?

A. Probably more so than any other line.

Q. Tell us the names of some of the competing bidders on sheets.

A. The Youngstown Sheet & Tube Company; Inland Steel Company; American Sheet & Tin Plate Company; Trumbull Steel Company, at the present time, and the Reeves Iron Company; that is about all.

Q. How about La Belle?

A. Yes, we get from La Belle too.

Q. Jones & Laughlin and Cambria on the light sheets?

A. No.

Q. Portsmouth?

A. Only occasionally.

Q. From which company do you get the larger part of your sheets?

A. The Youngstown Sheet & Tube Company.

Q. About what percentage of your buying is from them in sheets?

A. Light sheets, I should say perhaps 60 per cent.

MR. COLTON: May I interrupt long enough to ask if you are asking about the same three and a half years?

MR. REED: Yes, the last three and a half years.

THE WITNESS: Yes.

By MR. REED:

Q. What percentage of your sheets of this same character do you get from the Steel Corporation or any of its subsidiaries?

A. Probably 15 per cent.

Q. Now, as to the quotations that you get on sheets from these different competitors; do you find that these quotations vary or that they are uniform?

A. There is considerable variation in sheet quotations; always has been.

Q. How long have you been personally familiar with buying sheets?

A. Sheets longer than plates; probably ten—yes, twelve years.

Q. And that condition has obtained throughout that period of twelve years, has it?

A. Yes, always.

Q. You stated that at some few times, some unusual times——

MR. COLTON: I don't think he put it that way.

MR. REED: We will leave that to the record to decide.

By MR. REED:

Q. (Continuing) You found the quotations in plates pretty much the same? Were those times of prosperity or depression in business?

A. Usually in times of prosperity, and I am under the impression that the mills were not anxious for business.

Q. Now, in times of more or less depression, when the mills, like everybody else in the country, need business, do you find that they compete to get it by cutting prices?

A. I do, yes.

Q. Has there, in either plates or sheets, been any indication to you of any combination to fix prices among the makers?

A. There has not.

Q. Coming down to your bar purchases; do you buy them on a competitive basis?

A. Yes, invariably.

Q. About how many tons of bars do you buy in the course of a year?

A. This is still in that period of three and a half years?

Q. Yes; speaking in tonnages, I am asking you for tonnages of the present company.

MR. COLTON: On steel bars?

THE WITNESS: This is steel bars only.

By MR. REED:

Q. Steel bars only?

A. Between 800 and 900 tons.

Q. Annually?

A. Annually.

Q. What companies quote you on steel bars?

A. The Lackawanna and Jones & Laughlin, the Cambria Steel Company and the Carnegie Steel Company.

Q. And the T. C. & I.?

A. No; there is a difference in freight rates between plates and bars in our territory, and they cannot get in on bars; it will not go.

Q. And the Republic?

A. Yes.

Q. And the Gulf States Steel Company?

A. The same applies as to the Tennessee Coal, Iron & Railroad Company; they cannot get in on bars.

Q. The Knoxville Iron Company?

A. No; the freight rates are against them.

Q. Do you find competition in bars too?

A. Invariably, yes.

Q. Do the quotations that are made you by competing companies vary or are they uniform?

A. They vary.

Q. How long has that been so?

A. During my experience in buying, with the exception

that at times of extreme prosperity they may be the same, but in the majority of cases they vary.

Q. Over how many years does your experience in buying bars extend?

A. Steel bars, about twelve years.

Q. And iron bars, how long?

A. It has been a case—we formerly had a stock entirely of iron bars; now we only stock steel bars, and that has gradually changed over.

Q. About what percentage of your bar purchases are from the United States Steel Corporation and have been from the United States Steel Corporation during the past three years and a half?

A. About between 30 and 40 per cent.

Q. The Steel Corporation does not make iron bars, does it, so far as you know?

A. It does not, so far as I know.

Q. Is there competition for your business in iron bars too?

A. Yes.

Q. A number of different makers submit bids?

A. Yes.

Q. Do you find the same variation in quotations?

A. Yes, a variation in quotations.

Q. Do you find the same uniformity in times of prosperity, the same comparative uniformity?

A. Yes, at times.

Q. Do the quotations in iron bars behave any differently from the quotations on steel bars?

A. In the last three years I have paid very little attention to iron bars; the number of makers are few that we come in contact with, and we get very few quotations on iron bars.

Q. When you were buying iron bars did the quotations act the same as the quotations on steel bars?

MR. COLTON: Just a moment; I object to that on the ground that it calls for the witness to compare a complicated state of facts; that he can scarcely carry in his mind such a complicated state of facts, and that the exact conditions of variation in the two products are not disclosed to the court, and

that the answer is immaterial and irrelevant and calling for a mere conclusion upon facts not disclosed to the court.

(The question was repeated by the stenographer.)

THE EXAMINER: You may answer, sir.

THE WITNESS: Yes.

By MR. REED:

Q. Now, as to pipe, and by "pipe" I mean all tubular products; about how many tons do you buy in the course of a year?

A. Upwards of 800 tons.

Q. How long have you been personally familiar with the buying of pipe?

A. Fourteen years.

Q. What competitors are there for your business?

A. The Youngstown Sheet & Tube Company, the La Belle Iron Works, Spang-Chalfant, the Mark Manufacturing Company, the National Tube Company and A. M. Byers.

Q. Does the Republic Iron & Steel Company compete too?

A. Yes, they quote.

Q. The Wheeling Iron & Steel Company?

A. Yes, they quote, and I have purchased a little from them.

Q. Of course, I am not asking for the companies from which you buy, but the companies which submit quotations.

A. Yes, sir.

Q. Does the Central Tube Company quote to you?

A. Yes; since they have been in business they quote.

Q. To which company do you give the larger part of your business?

A. The National Tube Company, I believe, gets the largest proportion of it.

Q. About what percentage of your buying during the last three and a half years has been from the National Tube Company?

A. I should say between 45 and 50 per cent.

Q. And the balance scattered among its competitors?

A. Yes.

Q. Quotations on tubular products are made by discounts from a fixed list, are they?

A. They are.

Q. Do you find that those discounts vary?

A. Yes.

Q. I mean the quotations of discounts offered by the different competitors; there is a variation there, is there?

A. There is.

Q. How long has that been so?

A. With a few exceptions, since my experience in buying.

Q. Have those exceptions occurred in times of prosperity, like the other products?

A. Yes, that is always the case; has always been the case.

Q. Now, as to the wire products; about how many tons of wire products of all kinds do you buy annually, still speaking of the purchases during the past three and a half years, and including in the question plain and barbed wire, wire nails, poultry netting, woven wire fence or welded fence, and all wire products?

A. Between 700 and 900 tons.

Q. Is there competition in that business too?

A. There is.

Q. Tell us the names of some of the competitors?

A. The Pittsburgh Steel Company, the Youngstown Sheet & Tube Company, Jones & Laughlin, Cambria, the Gulf States Steel Company at the present time—it is the fourth generation, I believe.

MR. COLTON: What is that? It is the fourth generation?

THE WITNESS: Of the Birmingham Nail & Wire Company.

By MR. REED:

Q. You do not know whether the sins of the fathers have descended this far, do you?

A. No.

Q. Roebling's?

A. Yes. We buy some special wires from Roebling.

Q. The American Steel & Wire Company?

A. The American Steel & Wire Company.

Q. The Colorado Fuel & Iron Company?

A. Not for the last few years.

Q. Did they quote to you until a few years ago?

A. Yes.

Q. Did you buy from them?

A. We did.

Q. Up until how long ago?

A. Five years ago.

Q. Did you buy any substantial quantities from them?

A. A good tonnage.

Q. For how many years were you buying large quantities from them?

A. About four to five years; four years, probably is nearer right.

Q. What percentage of your wire products purchases during the last three and a half years have you made from the American Steel & Wire Company?

A. Fifty per cent.

Q. Has the balance been scattered among its competitors, or has any one competitor stood out among them?

A. The next would be the Youngstown Sheet & Tube Company.

Q. Is there any stock of American Steel & Wire Company goods in your vicinity which is of any advantage to you, Mr. Wilder?

A. At Texas City.

Q. How far is Texas City from Beaumont?

A. 80 miles.

Q. Is there at Texas City any warehouse stock of goods manufactured by the American Steel & Wire Company?

A. There is, yes, sir.

Q. Is that a large or small stock?

A. A very large stock.

Q. Is that the Tufts & Osborne Warehouse of which you are speaking?

A. Yes.

Q. Is that warehouse of any assistance to you?

A. Decidedly so.

Q. In what way?

A. Because it gives us quick shipments.

Q. Does the fact that you can get quick shipments from that nearby warehouse influence the percentage of your purchases of wire products from the American Steel & Wire Company?

A. Decidedly so.

Q. When you buy from Tufts & Osborne you count that as an American Steel & Wire Company purchase, do you?

A. Yes.

Q. Your purchases from Tufts & Osborne are included in that 50 per cent.?

A. They are.

Q. How far is Beaumont from Galveston?

A. Seventy-five miles.

Q. In wire products is this competition keen or otherwise?

A. Always keen.

Q. Do the quotations that the competitors submit to you vary as in these other products?

A. They have, yes.

Q. How long has that been so?

Mr. Colton: Just a moment. I would like to insert an objection to that. I object to calling on the witness to make a comparison between a dozen different products, and I object to the question as calling for a conclusion of the witness based on a state of facts not disclosed to the court.

The Witness: During my experience with the buying.

By Mr. Reed:

Q. How long have you had personal experience with the buying of wire products?

A. Fourteen years.

Q. Has any other large producer of wire products a warehouse in your neighborhood?

A. Two: The Pittsburgh Steel Company, at Galveston, and the Gulf States Steel Company at Port Arthur.

Q. Are you buying from the warehouse of the Pittsburgh Steel Company at Galveston?

A. Very little.

Q. What is the reason you do not buy largely from them, if they have a nearby warehouse too?

A. They have exclusive agencies on fence, and we cannot get their fence.

Q. Do they refuse to sell any welded fence to more than one dealer in any one town?

A. At the time of my last conversation with their salesman they did. They have an agent in Beaumont.

Q. How about the American Steel & Wire Company? Will it sell fence to anybody?

A. It does, yes, sir.

Q. So you buy their fence, do you?

A. We buy some of their fence.

Q. You buy fence from other makers too?

A. I do.

Q. During the period of your familiarity with the buying of these different products, Mr. Wilder, have you or have you not found competition in each of them?

A. Yes; we have always found competition.

Q. Has there been any time that you have been acquainted with the buying of these products that the Steel Corporation has had a monopoly of the business?

MR. COLTON: I object on the ground that it calls upon the witness to express an opinion concerning a matter involving a question of fact and law, and upon the further ground that it calls for an opinion and a conclusion of the witness upon a state of facts not disclosed to the court.

THE EXAMINER: You may answer, Mr. Wilder.

THE WITNESS: I do not know of any time that I could get that impression.

By MR. REED:

Q. How has their service been to you? Have their deliveries been as promised?

A. This is to cover the entire range of products?

Q. Yes.

A. Well, at times. At times we have very slow delivery. Last year was one of them.

Q. How has the quality been?

A. The quality has been good.

CROSS EXAMINATION

By Mr. Colton:

Q. Were you buying wire nails in 1901?

A. Yes; I was buying wire nails in 1901.

Q. From what companies did you purchase wire nails in 1901?

A. The American Steel & Wire Company, the Union Steel Company, I believe that is one that has passed out of existence some time—I do not know—in a suburb of Pittsburgh.

Q. Any other companies?

A. Whether the Alabama Steel & Wire Company was in existence I am not sure, but at that time, or about that time, I commenced buying from the Alabama Steel & Wire.

Q. You are not sure about that?

A. I am not sure about that. They came into the market, though, about that time. The Kokomo Steel & Wire Company, at Kokomo, Indiana.

Q. Of what date are you speaking? 1901?

A. This is for 1901, yes.

Q. Could you give me about the percentage you bought from the American Steel & Wire Company in 1901? I expect it only approximately, of course.

A. I should say 70 per cent. at that time.

Q. And about what proportion from the Union Steel Company in 1901?

A. I am not sure about this Union Steel.

Q. An approximation is all I want.

A. I should say 20 per cent.

Q. And the Kokomo Steel. That would be about 10 per cent.?

A. Yes.

Q. All of them are approximate, I understand?

A. Yes.

Q. Would it be about the same in 1902?

A. I don't know about that. The largest percentage was the American Steel & Wire Company.

Q. The Union Steel Company and the American Steel &

Wire Company were competitors for your business at that time, were they not?

A. Yes.

Q. And together they controlled, to the best of your recollection, about 90 per cent. of your business?

MR. REED: I object to that. There is no such evidence.

MR. COLTON: It is 20 per cent. for the Union Steel Company and 70 per cent. for the American Steel & Wire, according to his testimony.

MR. REED: He is talking about the percentage of his business, not the percentage of the business——

MR. COLTON: Of his business, I said.

MR. REED: I beg your pardon, then. I did not hear you right.

THE WITNESS: 70 per cent. for the American Steel & Wire Company and 20 per cent. for the Union Steel.

By MR COLTON:

Q. Were you aware of the fact that the Union Steel Company and the American Steel & Wire Company combined?

A. Yes; I think I knew that.

MR. REED: That is not literally true, is it, Mr. Colton?

MR. COLTON: Well, they were both absorbed by the United States Steel Corporation.

By MR. COLTON:

Q. Do you know whether, after the Union Steel Company was absorbed by the United States Steel Corporation, it maintained agencies for the sale of wire products separate from the American Steel & Wire Company?

A. I do not.

Q. You did not notice them in business after they were absorbed, I suppose, one way or the other?

A. No, sir; I did not.

Q. How long did you continue to purchase about the same proportion from the American Steel & Wire Company and the Union Steel Company that you did in 1901?

A. I think in 1903 the Colorado Fuel & Iron Company came into our market on these products.

Q. I do not think you understood the question. I will ask the stenographer to read it.

(The stenographer repeated the preceding question.)

A. I think they were practically the same in 1902. I am not sure about this Union Steel Company, however.

Q. About the percentage?

A. I still know that the American Steel & Wire Company had probably 70 per cent. of the business in 1901 and 1902.

Q. You do not recall just when the Union Steel went into the Corporation?

A. No, sir; I do not. I do not know.

Q. And in 1903 the Colorado Fuel & Iron Company, you think, came in?

A. Yes; it was in 1903, I think.

Q. Would other wire products range about the same as nails for those years?

A. It was my impression that we were putting all of those together, nails, wire, fence, barbed wire and all that into one classification. Were we not?

Q. You understood the question to apply to all those products?

A. I did, yes.

Q. Very well.

Take 1903: How were your wire products divided up, to the best of your recollection?

A. I think that the American Steel & Wire Company had dwindled down to about 60 per cent., and the Colorado Fuel & Iron Company was probably 25 per cent. We were still doing business with Kokomo, a very small portion. Their line was limited.

Q. Now, can you recall any other manufacturers of wire products that quoted you during the period 1901 and 1902, other than those you have named? On wire nails, say, first.

A. I am not sure but that we used to have the Kelly Iron & Steel Company, at Ironton, Ohio; they were in the market either before or about that time, and I think we bought some goods from them, but I don't know about that.

Q. Any others?

A. A little farther back was the Washburn & Moen Company.

Q. They went into the American Steel & Wire Company?

A. Yes; I think that was prior.

Q. And the Salem Wire Nail Company?

A. I know of them being in business, but I don't remember doing any business with them.

Q. And the American Steel & Wire Company?

A. No, I don't remember doing any business with them.

Q. The American Steel & Wire Company of Illinois?

A. I believe that was before my time; I am not certain.

Q. You have named all that you can now recall during that period that quoted you?

A. Yes.

Q. How long did this percentage continue relatively about the same between these companies that you have given for 1903?

A. Well, their percentage has gone down, and I believe we are buying from 45 to 50 per cent., possibly 50, from the American Steel & Wire Company, and during the period from 1903 to 1908, the Colorado Fuel & Iron Company probably got 25 per cent.

Q. And the American Steel & Wire Company about 60?

A. Yes, but that percentage gradually dwindled down to where it stands.

Q. About 50?

A. Yes; there are other companies coming into competition—the Birmingham mill.

Q. In 1903; can you name any other companies that quoted you in that year, other than the American Steel & Wire Company, the Colorado Fuel & Iron Company and the Kokomo Company, on wire nails?

A. Wire nails only?

Q. Yes.

A. No; except possibly this Alabama Steel & Wire Company. I am not sure that they came into the market at that time—about that time.

Q. You do not know—you had no reason to know whether the American Steel & Wire Company took over, at its for-

mation, in the neighborhood of 90 to 98 per cent. of the wire rod business of the country?

A. No, I do not know.

Q. And you do not know whether it took over between 80 and 95 per cent. of the wire nail business of the country, do you?

A. No, I don't know that percentage.

Q. And you do not know the size of this little Kokomo Company, do you?

A. No, I don't know much about that; I never had very much business with them.

Q. You were never informed as to the extent to which the American Steel & Wire Company controlled the capacity of the country in 1901 in wire nails, were you?

A. No, I never was.

Q. Now, take 1908. What companies quoted you in 1908 on wire products?

A. The American Steel & Wire Company, the Pittsburgh Steel Company, and the Colorado Fuel & Iron—well, I think their rates went off about that time, and they quit quoting about that time.

Q. They quit quoting about that time?

A. Yes. Then just what company operated Birmingham at that time—I presume the Southern Steel Company.

Q. One of those generations that you were speaking about?

A. One of the generations.

Q. You do not know whether it was in the hands of a receiver at that time or not?

A. I guess it was.

Q. Your guess would be that it was in the hands of a receiver at that time?

A. Yes.

MR. REED: Do you want that to go into the record?

MR. COLTON: He says that was his guess. I suppose that is what he heard in the trade.

MR. REED: I heard what he said, but I wanted to know whether you want that to go into the record or not.

MR. COLTON: Of course; I want all of his answers to go into the record.

MR. REED: Then I object to any testimony on a witness' guess about that receivership, it being a matter of record and capable of exact proof.

By MR. COLTON:

Q. About 1908, to the best of your recollection, you were giving about 60 per cent. to the American Steel & Wire Company?

A. Yes, I think they were getting from 55 to 60 per cent.

Q. And to the Pittsburgh Steel Company how much?

A. I should say ten to fifteen per cent.; they were getting some, not much.

Q. And the Southern Company?

A. They were getting possibly more at that time than the Pittsburgh Company.

Q. Those are the only companies that you recall quoting you in 1908?

A. In 1908 the Youngstown people came into the market, I think; I am not sure about this, though—1908 or 1909, but I am not sure about that.

Q. Do you recall what you paid the American Steel & Wire Company in 1908, base price on wire nails?

A. No, I could not give it to you exactly.

Q. Do you recall what you paid to the Pittsburgh Company?

A. No.

Q. Or to the Southern Company?

A. No, I don't remember the ruling price on nails at that time.

Q. There was a ruling price at that time, was there not?

A. Certainly there was a price at that time; I don't know what it was, though.

Q. And by "ruling price" you mean the price generally quoted, I suppose?

A. Yes, so far as we were able to obtain.

Q. In 1910 would your testimony in regard to wire nails be approximately the same as it was for 1908?

A. Now, there is an intermission in which I was in business in San Antonio; in the first half of 1910 and the last half of 1909 I was in San Antonio, and my purchases were strictly wire nails and fence at that time.

Q. Wire nails and fence?

A. Yes; we did not carry plates.

Q. What company did you purchase from during the first half of 1910?

A. Well, almost exclusively from the American Steel & Wire Company.

Q. And during the last half of 1909 you purchased almost exclusively from them?

A. Yes.

Q. And for what company were you purchasing?

A. The San Antonio Hardware Company.

Q. Then of course you did not intend to testify about the San Antonio Hardware Company?

MR. REED: He has just finished testifying about it.

THE WITNESS: Yes, the purchases were for the San Antonio Hardware Company the last half of 1909 and the first half of 1910.

By MR. COLTON:

Q. In the first half of 1910 did you go back to the company that you had formerly been connected with, the Norvall Company?

A. The Norvall-Wilder Hardware Company.

Q. What business was done by that San Antonio Hardware Company, which purchases you got exclusively from the American Steel & Wire Company?

A. That was practically operated as a receivership; there was a receiver there, and there was a preference shown on account of the very large account that they owed the American Steel & Wire Company.

Q. I asked you what tonnage.

A. I was not receiver; I was managing it, and reporting to a creditors' committee.

Q. You were not receiver, then?

A. No—with instructions to give preference to the accounts which were carrying the business on.

Q. They were some preferential creditors under some friendly arrangement?

A. Yes.

Q. Between themselves and the American Steel & Wire Company, as the largest creditor?

A. They were.

Q. They were carrying book accounts for the American Steel & Wire Company for a number of years?

A. Yes; and I was put there as manager, and my instructions were to give the preference to certain accounts.

Q. Can you tell me about the tonnage you purchased from the American Steel & Wire Company?

A. Their tonnage is not large; I do not suppose we bought in twelve months that I was there more than 250 tons.

Q. Of what?

A. Wire, fencing and nails.

Q. Do you recall what the ruling price was at that time?

A. No, I do not know the price that was being quoted at that time.

Q. In the latter part of 1910 you began business with the Norvall Company?

A. The Norvall-Wilder Hardware Company.

Q. What was the ruling price at that time, the base price on wire products?

A. Our first purchase came along in July, August or September, 1910; I don't remember just what it was.

Q. What different companies quoted you in the latter part of 1910?

A. The Pittsburgh Steel Company, the American Steel & Wire Company, the Youngstown Sheet & Tube Company, and I think possibly Jones & Laughlin, but I am not sure about them.

Q. Could you divide up that tonnage for the latter part of 1910, your percentage for the latter part of 1910, for these different companies?

A. Oh, I should say it was 80 per cent. to the American Steel & Wire Company.

Q. What was the last contract that you made with the American Steel & Wire Company?

A. The last contract?

Q. Yes.

A. In July or August of 1913.

Q. And for what tonnage?

A. I don't remember the exact tonnage; those contracts, we usually make them 100 tons minimum and 125 maximum.

Q. What was the preceding contract that you made to that with the American Steel & Wire Company, next preceding?

A. Probably about in April, it would be.

Q. In April, 1913?

A. Yes.

Q. Can you give me the base price in April, 1913, that you paid the American Steel & Wire Company on that contract?

A. $2.06 delivered, I think was the price a year ago in April.

Q. That was the general ruling price at that time?

A. We were able to get a better price from Youngstown, but on account of the advantage of service, we bought largely shipments from Texas City.

Q. Are those the only two companies from which you got quotations at that time?

A. No, we get quotations regularly from the Pittsburgh Steel Company.

Q. And at that time you could have gotten a better price from the Youngstown Company, but on account of service you preferred the American Steel & Wire Company?

A. Yes. In fact, I did get it; made a contract with them and bought some goods.

Q. What price did you pay them?

A. It was five cents less.

Q. Five cents a keg?

A. Yes; in our town.

Q. Could you give me the tonnage that you bought from the American Steel & Wire Company during the last three years?

A. Annual tonnage? Well, I should say between 350 to 400 tons.

Q. As I understand it, that is a mere approximation; you have not worked out any figures on it?

A. No, I have not any figures on this.

Q. Could you give me the price that you paid on that first contract, or any one of your contracts in 1912 to the American Steel & Wire Company?

A. No, I don't remember; I don't remember the price in 1912.

Q. Could you give me, if you now recall, any instance back of 1913 in which the variation between the American Steel & Wire Company's price and that of some other company with which you made a contract was greater than five cents a keg?

A. What was that question—prior to?

Q. Prior to January 1, 1913; a contract at the same time.

(At the request of Mr. Reed, the complete question was repeated by the stenographer.)

THE WITNESS: I can not give you the date.

By MR. COLTON:

Q. All right; give the date.

A. I cannot give the date.

Q. Give about the time.

A. The Alabama Steel & Wire nearly always had a better price than we had from the American, and we did business with them, I should say, during the years 1906, 1907 and 1908.

Q. What was the difference that you got with that company?

A. We got a dollar a ton.

Q. Can you give any instance in which it was in excess of a dollar a ton? Five cents a hundred would be a dollar a ton. I asked for any instance in excess of that, if you knew?

A. No; I do not know of any better price than a dollar a ton difference.

Q. Under the American Steel & Wire Company's price?

A. Under the American Steel & Wire Company's price. I do not know of any better than that.

Q. That is the best concession that you recall?

A. Yes.

Q. Would you give me the different generations of the Gulf States Company as far as you know them?

A. The Alabama Steel & Wire, the Southern Steel Company, the Standard Steel Company and the Gulf States Steel Company.

Q. When you spoke of the American Steel & Wire Company's willingness to sell its fence, you were only speaking just so far as you knew personally in regard to yourself?

A. That is all.

Q. So far as you had personal contact with them yourself?

A. Yes.

Q. You had no general knowledge on the subject?

A. No; that is all I know about it.

Q. And that is true of these other producers? You have no general knowledge as to how they conducted their business in other parts of the country?

A. No. I would not undertake to say.

Q. What was the first contract you made in pipe in 1913?

A. It would probably be early in January.

Q. That would be along about January to March 31st?

A. Yes; it would be for the first quarter, and would begin in January.

Q. Did you make one with the National Tube then?

A. Yes, sir.

Q. At what discount from the list price?

A. On the base size, 81 off and an additional 5.

Q. Did you make any contract with any other producer at that time?

A. Yes, sir.

Q. What one?

A. The Youngstown Sheet & Tube Company.

Q. What were the discounts?

A. The same, and we were allowed an additional 2½ per cent.

Q. That was 81 and 5 and then they gave a concession of 2½?

A. Yes.

Q. What other company did you buy from at that time?

A. That is the only one I carried contracts with.

Q. Did the National Tube give any discount for cash?

A. Yes.

Q. What was it, two per cent.?

A. Two per cent.

Q. Did the Youngstown give the same?

A. The same.

Q. What was the preceding contract that you recall that you made?

A. 1912?

Q. Yes.

A. I don't know. I presume that we practically covered those by quarterly contracts.

Q. You do not recall the discounts?

A. No, sir; I do not. The price was a little lower the last quarter of 1912.

Q. But you do not know what they were, then?

A. No. I think one point, but that is only a guess.

Q. You think the prices were a point lower?

A. Yes.

Q. A point lower for both companies?

A. Yes, sir.

Q. Do you now recall whether the Youngstown gave an additional 2½ per cent. then?

A. They did.

Q. Do you recall the tonnage you got from each of those companies at that time, or at either of those times?

A. You mean for 1913?

Q. Yes.

A. Well, we got about 45 per cent. from the National and I should say 25 per cent. from the Youngstown and 15 per cent. from La Belle; the balance from the Wheeling Iron & Steel Company.

Q. When did you begin to buy pipe?

A. 1901.

Q. From what companies did you purchase pipe in 1901?

A. The National Tube, A. M. Byers Company, I think—I am not sure about this A. M. Byers; that is getting away back; and then a company which is now succeeded by the Mark Manufacturing Company. I cannot supply the name.

Q. The predecessor of the Mark Manufacturing Company, anyway?

A. Yes.

Q. Do you remember what percentage you gave the National Tube Company in 1901, approximately?

A. The tonnage was light along there. I should say they got 60 or 65 per cent. of it.

Q. How long did they continue to get about that percentage of your business?

A. Well, they got at least that percentage up to 1907 or 1908.

Q. And in 1908 what percentage of the business did they get?

A. Well, they fell off some.

Q. Has it continued in the neighborhood of 50 per cent. since that time?

A. Yes.

Q. That is close enough.

Take plates: When did you begin to buy plates; in what year?

A. In 1909, I think.

Q. From what companies did you first purchase plates?

A. The La Belle Iron Works, I believe.

Q. Do you recall about the time you began to purchase plates in 1909? The first part of the year?

A. It was in the first part of the year, because I was only buying plates in the first part. I was in the light hardware the latter part.

Q. Do you recall about what you paid for plates in 1909?

A. No, I do not.

Q. Did you get quotations from any other company in 1909 in plates than the La Belle?

A. We got quotations from the Crucible Steel Company.

Q. I want to call your attention to the fact that I am just asking about 1909, if you have any recollection about that?

A. I think we got quotations from the Crucible Steel Company of America.

Q. Those are the only two you recall?

A. And Carnegie.

Q. Since 1910 what companies did you get quotations from?

A. The La Belle Iron Works. That is the last half of 1910?

Q. Yes; the last half of 1910?

A. The La Belle Iron Works, Jones & Laughlin, Tennessee Coal, Iron & Railroad Company and Cambria. I think that is all. We were not very strong in the plate business the last half of 1910. We were just getting started.

Q. Up through 1910 you were scarcely engaged in the plate business?

A. A very small movement on plates in 1910.

Q. Then your testimony on plates really begins about the year 1911?

A. Yes; that is about it.

Q. Taking 1911, do you recall a marked cut in price that occurred in 1911?

A. Yes.

Q. That price cut occurred about the time that Stanley began his investigation of the Steel Companies in this country?

A. I do not know as to the date of the Stanley investigation.

Q. Do you recall it as connected with the time Topping announced that he would withdraw from the co-operative movement of the different steel makers?

A. Yes; I remember some announcement of Topping, but I do not connect the date of the Stanley investigation. I do not know that.

MR. REED: Soon after the San Francisco earthquake, was it not?

By MR. COLTON:

Q. The cut occurred about the time of this announcement of Topping?

A. Yes; I remember that was at the height of it.

Q. When did you begin your purchases of steel bars?

A. I bought steel bars since 1901—no; I take that back; the first two years they were practically all iron bars. Steel bars were scarcely introduced in our section at that time. Make it 1904.

Q. In 1901, 1902 and 1903 you were such small purchasers of steel bars that you do not care to testify about that period?

A. Yes; we just commenced to work in on them.

Q. In 1904?

A. It was getting stronger.

Q. What company did you get steel bars from in 1904?

A. The Crucible Steel Company of America. I omitted that in my former testimony. The Illinois Steel and Carnegie—this is 1904 you are speaking of, is it not?

Q. Yes.

A. I do not think of any more right now in 1904.

Q. Do you recall what proportion of your steel bar purchases you got from the Illinois and Carnegie Steel Company that year?

A. I presume they were 50 per cent.

Q. Did you pay the Illinois Company and the Carnegie Company the same price that year?

A. I don't remember that.

Q. Do you know whether you paid the same price to them that you paid to the Crucible that year?

A. No; I expect the Crucible was the highest that year, and yet I bought something from them.

Q. You are not sure whether it was the same or higher?

A. I think they were higher. There is a reason for that. We put tool steel in the same cars, and we would make a saving in the freight rate. Yet we bought considerable tonnage from the Crucible Company, although they were higher. I remember that.

Q. In 1905 from what different companies did you buy steel bars?

A. They would be practically the same.

Q. Do you recall the relative prices in steel bars and iron bars during that period?

A. No, I don't remember that.

Q. You could not compare those?

A. No; I do not know.

Q. What is the first year that you do recall the relative prices in steel bars and iron bars?

A. I think the early part of 1909 would be as far back as I can remember prices. I only remember that because there was an extreme low price in the early part of 1909.

Q. There was a great cut of prices that occurred in 1909?

A. Yes.

Q. Somewhat similar to the great cut in 1911?

A. Yes; very similar.

Q. Do you recall that cut following the announcement by Judge Gary that he would withdraw from the co-operative movement, and that he would compete for a time without having his hands tied?

A. No.

Q. You did not see that account?

A. No. I did not know that that was connected.

Q. But you do recall that there was a great cut in that period?

A. I recall that there was a period of low prices there.

Q. And you cannot, as I understand you, compare the prices in iron bars with steel bars for any year?

A. What do you mean—whether iron bars were higher than steel bars?

Q. Yes; the relation between the prices, if any?

A. Yes; I know there has been some difference. For instance, when I first started in business in the present company in 1910 our opening stock was practically all iron bars.

Q. In 1910?

A. Yes.

Q. It was practically all iron bars?

A. Yes; because we bought them cheaper than steel bars. I could not get delivery on steel bars too. I remember that also was a factor.

Q. That was during 1910 that you were buying practically all iron bars?

A. Yes; practically all iron bars, although our purchases

were very small, because we were waiting for a more favorable market.

Q. In 1911 what did you get?

A. We commenced to buy steel bars exclusively.

Q. Then came that great cut in steel bars in 1911, and you took advantage of it and bought a considerable tonnage of steel bars?

A. Yes, sir.

Q. In 1912 you were practically out of the iron bar business?

A. Yes; we dropped iron in 1910 entirely.

Q. The only period during which you bought, in any substantial quantity, both iron bars and steel bars, was from what year to what year?

A. I should say in 1903 and 1904 they were practically 50 per cent. steel and 50 per cent. iron.

Q. A moment ago—I would call your attention to the fact to see whether you want to change your testimony on this subject—a moment ago you testified that in 1901, 1902 and 1903 you bought such a small quantity of steel bars that you did not care to testify about that period. Do you not think you had better begin in 1904?

A. Yes; I would like that better—1904.

Q. From about 1904, then, up to what year were you purchasing both steel and iron bars?

A. It was from 1904 to 1906. It would range 50, 60 and 70 per cent.

Q. Which?

A. With the steel on the increase.

Q. Then in 1907 what happened?

A. I expect it was practically all steel bars.

Q. There was only a very short period during which you were purchasing in any substantial quantity of both steel and iron bars?

A. Yes; a very few years.

Q. As I understood your testimony, there is a greater variation in sheets than in any other steel product?

A. There is a greater variation in sheet prices than in any other in the iron and steel market.

Q. And there are a great many manufacturers of sheets in this country, are there not?

A. Yes; there are a good many of them.

Q. There are a great many more manufacturers of sheets in this country than there are of plates, for example?

A. Yes; that is true.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Did you buy cut nails in any quantity in 1901 or 1903?

A. No; we have never bought cut nails.

MR. REED: That is all.

ALBERT S. WHITE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. At New Orleans.

Q. What is your occupation?

A. I am a manufacturer.

Q. Under what name do you do business?

A. The New Orleans Roofing & Metal Works.

Q. That is not a corporation, is it?

A. No, sir.

Q. It is the trade name under which you do business, I believe?

A. Yes.

Q. How long have you been in that business, Mr. White?

A. Since 1897.

Q. About seventeen years?

A. Yes.

Q. Do you personally do most of the buying?

A. Yes.

Q. I presume you buy a large quantity of sheets?

A. Principally, yes.

Q. Do you buy both plain and corrugated sheets?

A. Yes.

Q. And both galvanized and black sheets?

A. Yes.

Q. About how many tons do you buy in the course of a year?

A. Around about 3,000 tons.

Q. And you buy on a competitive basis?

A. We do.

Q. What percentage of that 3,000 tons do you buy from the United States Steel Corporation or its subsidiaries?

A. Around about 15 per cent., I should say.

Q. Is that 15 per cent. of the ordinary stock grades of corrugated sheets or plain sheets, or is it specialties?

A. Principally specialties.

Q. What kind of specialties?

A. Keystone metal, that is made by but very few concerns, and also specially coated material for shingle purposes.

Q. What is Keystone metal?

A. It is a special metal with a certain quantity of copper in it, made for culverts; we use it principally for culverts, corrugated iron culverts.

Q. That is a metal that is used to compete with the iron called ingot iron, is it?

A. Yes.

Q. Who makes ingot iron?

A. The American Rolling Mill Company.

Q. Is there competition for your business in sheets?

A. There is, yes.

Q. Tell us some of the companies that compete for it?

A. Well, the Stark Rolling Mill Company; La Belle Iron Works; Youngstown Sheet & Tube; Seneca Iron & Steel Com-

pany; Trumbull Iron & Steel Company, and the Apollo Steel Company.

Q. That is a new concern, is it?

A. Yes, and the Portsmouth Steel Company, the De Forest Sheet & Tin Plate Company, Fannin-McCullough, and the Parkersburg Iron & Steel Company.

Q. And the Inland?

A. The Inland Steel Company.

Q. And the American Rolling Mill Company?

A. American Rolling Mill Company.

Q. American Sheet & Tin Plate Company?

A. American Sheet & Tin Plate Company.

Q. Canton Steel Company?

A. The Canton Steel Company.

Q. How about this McCullough Iron & Steel Company at Wilmington, Delaware?

A. Yes, we get quotations from them also.

Q. I suppose there are others besides this list you have given?

A. Yes; that I could not give at the present time.

Q. You must be one of the largest purchasers of sheet steel in the South, are you not?

MR. COLTON: I object to the witness answering a question as to which he has no knowledge, obviously.

(The question was repeated by the stenographer.)

THE EXAMINER: Answer, sir.

THE WITNESS: I think I am.

By MR. REED:

Q. Take the quotations that are made by these different competitors; do they vary, or are they alike?

A. They vary.

Q. How long has that been so?

A. Well, I think since around 1905.

Q. Is the competition keen or otherwise?

A. Very keen.

Q. Do you get the benefit of genuine, aggressive competition in your purchases?

A. We do.

Q. Do the salesmen of these different concerns solicit your business?

A. Yes.

Q. Has your business grown or decreased in the past ten years?

A. It has grown.

Q. I mean your personal business.

A. Yes.

Q. And the district in which you sell your products I suppose is the New Orleans district generally?

A. Yes; the Southern territory.

Q. How far away from New Orleans do you go in your business?

A. We sell as far as Florida to the east, and Texas to the west, and Arkansas.

Q. Did the panic of 1907 reach as far as New Orleans, Mr. White?

A. I am sorry to say that it did.

Q. Did you at that time know anything about an effort that was made by some of the larger steel companies to avoid demoralization at the time of the panic?

A. Yes.

Q. That has been called, I believe, the Gary dinner movement; have you heard that name used?

A. Yes.

Q. What was the effect of that movement on men in your business and your class of business in this country?

A. It was very beneficial.

Mr. Colton: Just a moment. I object to the witness testifying in regard to the effect of the Gary dinner movement; he has not been shown to have any knowledge on it.

By Mr. Reed:

Q. Just explain, if you will, where that benefit lay.

A. It prevented the demoralization of prices; most of the jobbers had very large stocks on hand, and if the mills had gone to cutting prices there would have been a great loss to the manufacturers and jobbers carrying large stocks.

Q. Upon whom would the greatest loss have fallen?

A. It would have fallen on the merchants, the jobbers.

Q. As distinguished from the manufacturers?

A. Yes.

Q. Did the jobbers have large stocks on hand at the time the panic came?

A. Yes, they did.

Q. Did you personally have a very large stock?

A. I had a very large stock.

Q. What would have been the effect on you and your business at the time of that panic if there had been a general price war among the competing manufacturers?

A. Well, we would have been very heavy losers.

Q. Did the demand for sheets, so far as you know, fall off at the time of the panic?

A. Yes.

Q. Was there much new business going to the mills then?

A. No; very little business.

Q. Do you buy other metals besides steel?

A. Yes.

Q. Such as what?

A. Well, we buy sheet copper and sheet zinc, solder, and some pig tin.

Q. Pig tin?

A. A little pig tin, yes.

Q. How have the prices of those metals ranged in the past ten years? Have they continued to increase or to decrease?

A. Tended to increase?

Q. How have the prices on steel materials ranged during the same period? Have they tended to increase or decrease?

A. They have tended to decrease.

Mr. Colton: May I ask if he is testifying about anything but sheets?

Mr. Reed: That is all I am asking Mr. White about, the sheet steel that he buys.

By MR. REED:

Q. Then the movement in steel prices has been the opposite of the movement of other metal prices generally?

MR. COLTON: You mean sheet prices?

MR. REED: I am speaking now of sheet steel, as to which Mr. White has knowledge.

THE WITNESS: Yes.

By MR. REED:

Q. Have you, in the course of your business, noticed any unfair tactics or discreditable methods of competition adopted by the Steel Corporation toward its competitors?

A. I have not; no, sir.

Q. Nor any unfair methods used toward its customers?

A. No, sir.

Q. Has its competition been generally clean?

A. Always, so far as I know; and I have heard other competitors express the same opinion.

MR. COLTON: I object to any hearsay.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. I understand from what you said that the Gary dinner movement tended, to a very large extent, to prevent cutting in prices.

A. Yes.

Q. But you do not know anything about the way in which those manufacturers got together and announced prices until they reached a common price? You don't know anything about that?

A. Nothing except what I have read in the newspapers and heard from various steel people whom I know.

Q. As to their getting together, and so forth?

A. Yes.

Q. What stock of sheets did you have on hand November, 1906?

A. In 1906?

Q. Yes.

A. It would be pretty hard for me to tell you offhand.

Q. You haven't any recollection of that offhand?

A. No.

Q. Well, November, 1905; have you any recollection of that? The stock you had on hand?

A. I know we carry pretty large stocks; we have to, we are a long way from the mills.

Q. But you haven't any special recollection about whether it was large or small at that time, as compared with the usual times?

MR. REED: About what time?

By MR. COLTON:

Q. In 1905.

A. In 1905, I should say an average stock.

Q. And in 1910 what sort of stock did you have on hand; in November, 1910?

A. In November, 1910, I don't remember, either.

Q. What was your average stock, say in November, 1905 and 1906, and so on?

A. Well, I should say about 150 to 200 tons.

Q. From 150 to 200 tons? And your annual sales at that time were about what?

A. In the neighborhood of around $600,000 or $700,000.

Q. About how many tons a year?

A. Anywhere from—you mean just in sheets?

Q. Yes; that is the only thing you have testified about, isn't it?

A. Yes. I should say from 2,000 to 2,500 tons.

Q. Then you would dispose of that 150 to 200 tons in the course of a month, wouldn't you?

A. Of sheets?

Q. Yes.

A. How many do you say?

Q. From 150 to 200 tons within a month or so?

A. A month? That depends a good deal on trade conditions.

Q. If you cut the price; you intend to get rid of that, do you not?

A. Not always; cutting prices does not always bring business.

Q. Do you recall a very large cut in price that occurred in 1909?

A. There was a cut, a reduction in the price of sheets.

Q. That occurred about 1909?

A. Yes. Sheets have been going down for some time; I don't remember just about that.

Q. Do you recall a cut that occurred in 1911 in sheets?

A. There have been cuts in sheets pretty nearly every year since 1906. They have been going down, in fact, since 1902; they would go down and then go up again; it all depends on the demand and supply.

Q. There was much greater uniformity during 1901 to 1905 than there has been since, as I understand your testimony; is that correct?

A. Yes, I think there was.

Q. Now, you went into the sheet business in 1897?

A. Yes.

Q. Do you recall what you were paying for sheets in 1897, 1898, 1899 and 1900?

A. In 1897 the prices were very high, when we first went into business; we paid something like four dollars, I remember, per hundred for galvanized sheets in 1897.

Q. What did you pay for black?

A. About three dollars.

Q. How about 1898? How were the prices?

A. Well, they fluctuated; they may have been a little higher. I think they were higher in 1898.

Q. In 1899 how were they?

A. I think they went down in 1899.

Q. Then in 1900 they went away down?

A. Black sheets to about $1.80; yes, everything went down, things were pretty slack in business just at that time.

Q. That was just before the formation of the American Sheet Steel Company?

A. Yes.

Q. After the formation of the American Sheet Steel Company the price of sheets went up?

A. Only temporarily; I think they went up when it was first formed, in 1901; I think the prices in 1902 went down again.

Q. And in 1900, when it was first formed, the prices went up, as I understand it, and before that they had been selling in the neighborhood of $1.80, base price?

A. You mean for black sheets?

Q. Yes.

A. Around there; something like that.

Q. Can you give any period between 1901 and 1910, inclusive, in which black sheets sold as low, base price, as $1.80?

A. Between 1901 and 1910?

Q. 1901 to 1910, inclusive.

A. I do not remember. I know they went down, though, in 1903.

Q. And in 1904?

A. 1904 and 1905; then they started to go up, about 1905 or 1906. In the latter part of 1902 and the first of 1903 sheets got down very low; I think they got down to about $2.35 for galvanized and two dollars and something for black. For three years there they were down pretty low.

Q. Still about one dollar higher than before the American Sheet Steel Company was formed?

MR. REED: How long before? Will you not specify in your question?

MR. COLTON: I will let the witness specify. I am examining the witness; I am not testifying.

THE WITNESS: I don't remember.

By MR. COLTON:

Q. Take the year 1901; what was the base price for sheets, if you know?

A. In 1901? Well, they fluctuated around from four cents up.

Q. That would be four dollars, speaking of the usual base? That would be four dollars per hundred pounds?

A. Yes, for galvanized sheets.

Q. In 1902 what were the prices?

A. About $3.75, I think.

Q. You are just more or less approximating; you might miss these by 25 or 30 cents, I suppose?

A. No; those prices, I think, would be about average prices. Of course there were fluctuations in the market, but I think it was about the average price; four cents in 1901, and in 1902 they went down about 25 cents a hundred.

Q. What would the price be for 1902?

A. $3.75.

Q. In 1903 what price?

A. They went down again to about $3.35 average, I think.

Q. And in 1904?

A. About the same.

Q. 1905?

A. About the same.

Q. And in 1906?

A. In 1906 they started to advance, and went up to around $3.75.

Q. In 1907?

A. They advanced the early part of 1907 to even higher; I think around $3.85 or $3.90.

Q. In 1908?

A. In 1908 they started to go down.

Q. What was the average price that you have any recollection of?

A. Around about, I think, $3.50.

Q. And in 1909?

A. They went away down; I think around $3.25, I think it was.

Q. Didn't it get lower than $3.25 in 1909?

A. It may have gone a little lower; that is the average price. Of course I am not giving you the extremes either way, but taking the year, the average would run around $3.25.

MR. REED: You are speaking of black or galvanized?

THE WITNESS: Galvanized.

By MR. COLTON:

Q. Take the black sheets for each of those years.

A. About a dollar less.

Q. You mean to say that black plate in 1902 was only $2.75?

A. About a dollar less than galvanized; sometimes they did not always vary the same; they may have been ten cents a hundred higher, but it would be about $1.10 advance on the price of galvanized.

Q. In 1904 what was plain black?

A. You can take this—I mean that I am not as familiar with black; I am more familiar with galvanized, I have bought more galvanized than I have black, and I know more about it than galvanized. I know it varies about a dollar a ton less than galvanized.

Q. That is a mere opinion on your part?

A. No; I know it to be a fact.

Q. If you know the price of black sheets in 1904, will you give it to me?

MR. REED: He said about a dollar less than galvanized.

MR. COLTON: I have a right to ask the particular price of the product I am speaking about.

MR. REED: But you have no right to keep reiterating the same question over and over again after he has answered it once.

(The question was repeated by the stenographer.)

THE WITNESS: As I stated, galvanized averaged about $3.35, and black would be worth about $2.35.

By MR. COLTON:

Q. You have no independent recollection as to the price of black plates in 1904, have you?

A. Except that it was a dollar a hundred less than galvanized sheets.

Q. Did all makers maintain that uniform difference?

A. No, sir—you mean on black sheets?

Q. Yes.

A. Practically; just about the same.

Q. In 1907 what was the price of black sheets, plain black?

A. The same difference; about a dollar a hundred less than galvanized.

Q. What was it?

A. In 1907 the price on galvanized was around—well,

prices went up in 1907, fluctuating anywhere from $3.50 up to $3.85. Black sheets would be about $2.50 to $2.85.

Q. Where do you get these average prices that you are now speaking of?

A. On sheets?

Q. Yes.

A. Well, I got them from the place we buy the stuff at.

Q. Have you made any average of your prices for any of those years?

A. We always keep the average prices; we keep a regular stock book, which shows what the stuff costs us, and at the end of the year we take stock.

Q. When did you last look up your average price on galvanized sheets?

A. What do you mean?

Q. On galvanized sheets for 1903.

A. I looked it up about a week ago, I think it was.

Q. Did you learn it by heart then?

A. I didn't learn it by heart; no, sir.

Q. Did you make these average prices yourself?

A. Oh, no; as I say, we keep the prices, and also get the trade papers that show those prices for every year that sheets have been in existence, almost; the tabulated prices.

Q. You have in mind the prices that you derived from the trade papers and from this system?

A. I do not catch the question.

Q. You have in mind the trade paper prices and these system prices that you have given here?

A. No; those were the prices I bought the stuff at; those were the prices at which we made our purchases.

Q. You say you have in mind the average prices in the trade papers?

A. No, I say we compared those with the trade papers to see how they averaged, along with our prices.

Q. Take the year 1901. What percentage of your product did you get from the American Sheet Steel Company?

A. In 1901 we practically got all our sheets from them.

Q. In 1902?

A. About the same.

Q. In 1903?

A. About the same.

Q. 1904?

A. About the same.

Q. In 1905?

A. I think in 1905 we started purchasing from some of the outside mills.

Q. About what percentage from the American Sheet Steel Company?

A. In 1905 probably 85 per cent.

Q. 1906?

A. In 1906 a little less.

Q. A little less than 85?

A. Yes, I think so.

Q. And in 1907?

A. Less still.

Q. About what?

A. In 1907; well, I should say about 65 per cent., probably, from the American Sheet & Tin Plate Company. At that time I think it was the American Sheet & Tin Plate Company.

Q. In 1908?

A. In 1908 it got down pretty low. I think we bought most of our stuff from independent mills.

Q. In 1909?

A. The same.

Q. And in 1910?

A. We gradually got more mills, and we divided the business up among them.

Q. Up to 1907 and 1908 you had been giving your business substantially to the American Sheet Steel Company?

A. No; I think up to 1906.

Q. Through 1906?

A. Yes; up to 1907.

Q. You had been giving your business either to the American Sheet Steel Company or the American Sheet & Tin Plate Company?

A. Yes.

Q. Is there any one company to which you have given as much as 50 per cent. of your business since you quit giving

about 85 per cent. of your business to the American Sheet Steel Company, or the United States Steel Corporation's subsidiaries?

A. In some years I think we have.

Q. Fifty per cent. to what company?

A. I think to the La Belle Iron & Steel we gave about 50 per cent. of our business in those years; I have forgotten exactly which one; 1910 or 1911, something like that.

Q. What purchasers of sheet steel are there in the South?

A. There are a great number of them.

Q. You don't know them all personally, do you?

A. Not all, no.

Q. What do you call the South?

A. I mean just in this particular territory—Texas, Louisiana, Alabama, Georgia, Florida and the Carolinas.

Q. What purchasers of sheets are there in Georgia?

A. In Atlanta the Conklin—I have forgotten the exact title.

MR. REED: The Conklin Sheet & Tin Plate Company?

THE WITNESS: Yes; the Conklin Sheet & Tin Plate Company. That is it.

By MR. COLTON:

Q. Can you give me any others?

A. In Georgia?

Q. Yes.

A. All the hardware companies purchase sheets.

Q. I suppose you have no special knowledge as to all the different hardware companies in Georgia, have you?

A. No, sir.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Mr. White, how do you find these trade paper prices compare with the prices that you actually pay? Do they always agree?

A. No, sir; they do not.

Q. Do you sometimes have to pay more than the trade papers are quoting?

A. Rarely ever. We usually buy at less than the trade papers quote.

Q. You usually buy for less than they quote?

A. Yes.

Q. I suppose it is a part of your business to keep informed as to commercial conditions in the Southern States, is it not?

A. Yes, sir.

Q. Have you any idea how many tons of sheet steel you had on hand at the time the panic of 1907 came upon us?

A. I know we had a very large stock, because business had been very good at that time, and we were carrying very large stocks.

Q. Can you give us an approximation of the number of tons you had in stock?

A. Well, I could not tell you offhand, but we were carrying large stocks and having lots of it shipped all the time from the mills. Stuff was coming in all the time. Shipments were arriving all the time.

Q. Did you have more in stock than usual?

A. Yes, sir.

Q. Did you have more than you would have at the same time of the years 1905 and 1906?

A. Yes, sir.

Q. I suppose this particular period in 1907 is pretty well fixed in your memory?

A. Yes, sir.

Q. As it is in the minds of a number of us.

That is all.

RECROSS EXAMINATION

By Mr. Colton:

Q. That period is pretty well fixed in your memory? Then give me within 200 tons of how many sheets you had in your own stock in November of 1907, if you have any memory about it.

A. Within 200 tons?

Q. Yes.

A. I should say we had probably 400 tons on hand and stuff coming in every day or so; several cars a week.

Q. Do you have the slightest recollection as to the number of tons you hand on hand in November of 1907?

A. In November, 1907?

MR. REED: He has just answered.

MR. COLTON: I wish to have the witness at the present time, Mr. Reed.

THE WITNESS: Yes, sir. I should say we had, as I say, about 400 tons.

By MR. COLTON:

Q. What company did you have that from?

A. In 1907?

Q. Yes.

A. We had that from La Belle Iron Works, American Sheet & Tin Plate Company and the Seneca Iron & Steel Company.

Q. How many tons did you have on hand January 1, 1908?

A. We had a pretty good stock.

Q. Do you remember what it was?

A. I should say anywhere from 350 to 400 tons.

Q. Do you buy on 90 day contracts?

A. Sometimes longer than that.

Q. What contracts did you have on hand in November, 1907?

A. We had contracts all the time. We always have contracts.

Q. What contract did you have on hand then?

A. I don't remember what contracts we had.

Q. You don't remember anything about the contracts you had at that time?

A. Yes; I remember we had contracts.

Q. With what companies?

A. As I say, we had them with the La Belle and the American Sheet & Tin Plate Company.

Q. Over what period were those contracts?

A. Usually 90 days.

Q. Usually 90 days?

A. Yes.

Q. Then the shipments coming in would continue during those 90 days, and after that you need not take any more unless you wanted to renew your contract when your 90 days were up?

A. Not unless we renewed the contracts.

Q. What was your tonnage in November, 1908?

A. On hand, you mean?

Q. Yes.

A. We let our stocks run down after the panic of 1907. We were carrying as light stocks as possible.

Q. About what was it?

A. I suppose it ran down probably to 200 tons or less.

Q. What was it on January 1, 1909?

A. I cannot state. I don't remember offhand. Anywhere around 200. It ran probably about the same thing—200 tons, I suppose.

Q. Do you have any definite knowledge as to any purchaser of sheets in the South, as to how many tons he had on hand January 1, 1909?

A. You mean any other purchaser beside ourselves?

Q. Yes. If so, give it.

A. I cannot remember just at this time.

Q. If you have in mind any other purchaser than yourself as to the amount he had on hand in November, 1907, give the purchaser of sheets, and the tonnage, as nearly as you can?

A. I cannot say. I know they all had a pretty good stock of stuff.

Q. Do you remember how the prices were in November, 1907? Pretty high?

A. In November, 1907, no, sir. The market was beginning to decline at that time.

Q. When did it begin to decline?

A. I think around September, if I remember rightly.

Q. Do you recall the price of sheets in September?

A. I cannot remember exactly; I know it began to decline around September; in the fall of 1907.

Q. Your large purchases enable you to get a concession, do they not, in sheets?

A. I don't think so.

Q. As a large purchaser of sheets you cannot get any benefit from being a large purchaser?

A. Not very much.

Q. You do not get much under the general going price, then, by reason of the fact that you are a large purchaser?

A. Sometimes we get a little bit, but the prices are usually about the same to all jobbers.

Q. Do you know what the prices are to any person except yourself? If so, what person, and if you know the price for any, give it?

A. I could not say offhand. I know we usually keep track of what our competitors are doing, and usually know what the prices are. We know they buy at the same price we do.

Q. Do you all buy at about the same price?

A. Yes.

Q. And at a given time there is a going price at which you all buy? You all buy at about the same price, as I understand?

A. We may buy from one mill, probably, at a little lower price than our competitors are buying from another mill. The mills would make a difference in the prices. One mill would sell lower than another mill.

Q. That happens occasionally?

A. Yes.

By Mr. Reed:

Q. How do you learn what your competitors are paying?

A. From the representatives of the mills. We find out who they are selling, and what prices they are buying at.

Q. There is a pretty free exchange of information?

A. Yes.

Q. Do you find that that exchange of information in that way has a tendency to make things more stable than if everybody was going in the dark?

A. Yes.

Q. (Continuing) And did not dare talk to his competitor?

A. Yes.

By Mr. Colton:

Q. During the year 1913, say the last three months, what competitor has informed you as to his price?

A. As to his price?

Q. As to the price that he was paying for sheets?

A. I did not say that I got that always from my competitors. I say we get it very often from the mills that we buy from. We know what they are selling other people at.

Q. Then it is not an interchange of price among the competitors of which you are speaking?

A. Sometimes it is. I know what the other people are paying.

Q. In 1913, then, name any competitor that informed you as to the price he paid for sheets?

A. In 1913, I think Mr. B. V. Redmond of this city.

Q. What price did he say that he paid for sheets?

A. I would meet him occasionally, and he would mention about the market, what the prices were and what prices he was paying.

Q. Did he say what he paid on any particular contract?

A. He mentioned what the price was at the time, the market. If I would meet him, he would say, for instance, "Prices on sheets are so-and-so to-day."

Q. He mentioned the market price?

A. Yes.

Q. He did not say that that was the price he was paying? He did not tell you that, did he?

A. He may not have said, but from the way he spoke I would know that that was the price he was paying. The same way with Mr. Laroussini.

Q. He mentioned the market price also?

A. He mentioned exactly the price that he was paying, at times when we would meet. He would discuss these things with me.

Q. How many times did he mention the exact price that he was paying, during 1913?

A. I could not tell you offhand, but several times during the year.

Q. Do you remember one single price that he told you he was paying?

A. I remember he said he was buying stuff as low as $2.80, for instance, for galvanized sheets. He had contracts at $2.85, $2.90.

Q. Those are the only two competitors?

A. I think Mr. Jones told me the same thing.

Q. Of what company?

A. J. W. Jones. He handles sheets here in the city.

Q. What benefit did you get from those price statements that they made to you?

A. I knew that they were not buying sheets any lower than we were.

Q. That was the only benefit you got?

A. I guess that is a considerable benefit; if we know what our competitors are paying for their stuff we know how to figure.

Q. Those are the only prices you remember? You cannot give the prices that Mr. Jones said he was paying?

A. The same thing. They were all paying around $2.80, $2.85, up to $2.90 or $3.00, and so on.

Q. Did anyone else mention to you that he was paying $2.85 for a given tonnage or contract at any given time?

A. Yes. He had contracts for that.

Q. For any specific tonnage?

A. No. He would say he had a contract on a basis of $2.85. We mentioned different prices that we all had on stuff.

Q. Those are the only competitors you got prices from in 1913?

A. No; I think I also spoke to Stauffer, Eshleman & Company. I spoke to their representatives.

Q. Do you remember speaking to them?

A. I don't remember whether we discussed the exact price that they were buying at, but we discussed prices.

Q. Market prices?

A. Market prices. We just discussed the general conditions.

Q. Back of 1913—in 1912—what prices did you get?

A. I do not remember.

Q. Do you recall any prices at all that you got, a definite price on a definite tonnage, in 1912?

A. No, sir; I do not remember at the present time.

Q. You cannot recall anyone back of 1913 from whom you got a definite price?

A. Not offhand, no, sir. I may have spoken to these same gentlemen, but I do not remember.

Q. You do not remember having spoken to them?

A. No, sir.

Q. You mean you do not remember?

A. No, sir; I do not remember. I may have spoken to them.

(Whereupon a recess was taken until 2 o'clock.)

AFTER RECESS.

EDWARD A. PEDEN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Houston, Texas.

Q. What is your occupation?

A. Merchant.

Q. What is the name of your company?

A. The Peden Iron & Steel Company.

Q. That succeeded a partnership which was known as Peden & Company?

A. Yes.

Q. How long have you been in the iron and steel business?

A. Since 1890.

Q. You have had an executive office in the Corporation, I believe, since it was formed?

A. Yes.

Q. And you are president of it at this time?

A. Yes.

Q. Did you have anything to do with buying steel materials for your partnership and for your corporation?

A. Yes; I did all the buying until about five years ago, and since that time have kept in right close touch with the gentleman who handles the detail of it.

Q. It has been done under your supervision, and is being done under your supervision still, is it not?

A. Yes.

Q. What kind of steel materials does your company use?

A. What is that?

Q. What kind of steel materials do you buy?

A. Black and galvanized flat sheets, corrugated, tin plate, ternes, bars, nails and wire; tubular goods and steam plant supplies and builders' hardware.

Q. Bars?

A. Yes.

Q. Angles?

A. Yes.

Q. And hoops?

A. Yes.

Q. Cotton ties?

A. No; we don't handle cotton ties; we handle hay bale ties.

Q. Structural of any kind?

A. No structural.

Q. Rails?

A. No rails.

Q. About how many tons of sheet and tin plate do you buy annually?

A. Approximately 8,000 or 9,000 tons.

Q. What percentage of that is tin plate?

A. I have never had those figures made up, but I presume 15 per cent., possibly 20 per cent.

Q. How much of that 8,000 or 9,000 tons do you buy from the Steel Corporation?

A. Seventy-five to 85 per cent.

Q. Is that because the Steel Corporation has no competition?

A. No; there is plenty of competition.

Q. If it has competition, will you tell us the names of some of its competitors in those products?

A. In sheets and tin plate?

Q. Yes; some of the competitors that solicit your business, you understand.

A. The Wheeling Corrugating Company; N. & G. Taylor Company, of Philadelphia; the Youngstown Sheet & Tube Company; the La Belle Iron Works, and formerly the Empire Iron & Steel Company, at Niles, Ohio.

Q. That is the Brier Hill Company, now, I believe?

A. Yes, I think so. There are a good many others that I don't recall at the moment.

Q. Let me suggest some: Jones & Laughlin?

A. Yes.

Q. Cambria?

A. Cambria, yes.

Q. Portsmouth?

A. Yes.

Q. And the Newport?

A. Yes.

Q. And the Stark?

A. Yes.

Q. And the American Rolling Mills?

A. The American Rolling Mills.

Q. And there are some others besides that?

A. Yes.

Q. That is enough for our present purposes.

A. Yes, sir.

MR. COLTON: This is in sheets, I understand?

THE WITNESS: Sheets and plates, and tin plate.

By MR. REED:

Q. Do the Phillips Sheet & Tin Plate Company quote to you on tin plate?

A. They have.

Q. Does the McKeesport Company get down here at all?

A. I don't recall the McKeesport.

Q. The De Forest Tin Plate Company?

A. I don't recall them.

Q. Jones & Laughlin and the Youngstown both quote to you on tin plate as well as sheets, do they not?

A. Yes.

Q. About how many tons of tubes do you buy in a year, tubular products of all kinds?

A. Between 6,000 and 7,000 tons.

Q. What percentage of that do you get from the Steel Corporation?

A. Nearly 90 per cent., I should say.

Q. Is there any competition in pipe and tubes?

A. Yes, lots of it.

Q. Tell us the names of some of the competitors that solicit your business.

A. Well, there is the Youngstown, the La Belle, the Wheeling Iron & Steel Company, and the Mark Manufacturing Company.

Q. Spang, Chalfant?

A. Spang, Chalfant; and some years back, the Harrisburg Pipe & Pipe Bending Company we bought from.

Q. A. M. Byers & Company?

A. A. M. Byers; at one time we bought quite a little from the Crane Company in the smaller sizes.

Q. That was National Tube Company pipe, wasn't it, or did they make it themselves?

A. No; this was when they made it themselves.

Q. In recent years they have been carrying National Tube stock, I believe?

A. I understand so.

Q. How many tons of wire products do you get in a year?

A. Roughly, 3,000 tons.

Q. Do you get nearly all of that from the United States Steel Corporation?

A. Seventy-five to 85 per cent., approximately.

Q. Is there competition in that?

A. Yes.

Q. Tell us the names of some of the competitors on wire products that solicit your business.

A. The Pittsburgh Steel Company; the Youngstown Sheet & Tube, formerly the Kokomo; at one time the Colorado Company, the Colorado Fuel & Iron, I think it was, and the Alabama Steel & Wire Company.

Q. That is the Gulf States Company now, isn't it?

A. I don't know.

Q. The Alabama Steel & Wire, when it was soliciting your business?

A. Yes.

Q. And the Southern Steel Company—that is the same company, is it not?

A. I don't recall the Southern Steel.

Q. The Atlanta Steel Company?

A. I don't think so.

Q. Jones & Laughlin?

A. Jones & Laughlin, yes.

Q. And the Cambria?

A. The Cambria, yes.

Q. On bars, angles, hoops and bar mill products generally, about what tonnage do you get annually?

A. Something between 3,000 and 4,000 tons.

Q. About what percentage of those products do you get from the Steel Corporation?

A. Well, including reinforcing bars, I don't believe it runs very much over 50 per cent.

Q. What companies compete for your business besides the Steel Corporation on bar mill products?

A. Why, the Corrugated Bar Company, handling largely their tonnage through the Lackawanna, as I understand it. We buy more from them than any one concern outside of the Carnegie Company; the American Iron & Steel Manufacturing Company, of Lebanon, Youngstown, and the Cambria.

Q. And the Republic?

A. The Republic, yes.

Q. Jones & Laughlin?

A. Jones & Laughlin, yes.

Q. You did not name the Republic as one of the competitors on pipe and tubes?

A. Well, I should have done so.

Q. They also quote on that, do they?

A. Yes.

Q. Now, Mr. Peden, I notice that you buy a very large part of your steel from the Steel Corporation and its subsidiaries, and I infer from the list of competitors that you have given us that your reason for buying from them is not want of competition?

MR. COLTON: I object to that inference.

MR. REED: And I object to objections stuck in the middle of my questions, Mr. Colton.

By MR. REED:

Q. I wish you would tell us the reasons you have for buying so largely from the Steel Corporation.

A. Well, one of the leading reasons is because we are so far from the source of supply, it takes us so long to get our goods, that we determined long ago to concentrate our purchases very largely with those manufacturers who could give us the widest range and the greatest diversity of sizes, and our relations have been entirely pleasant and agreeable, and the service has been satisfactory, and the quality particularly uniform and dependable.

Q. How have you found the Steel Corporation in regard to fulfilling its promises of delivery to you?

A. Very good, as a rule, although at times they have fallen down and disappointed us considerably.

Q. They are still human?

A. Yes.

Q. And how has their treatment and service been?

A. Very satisfactory.

Q. How have you found the prices that have been quoted you by the Steel Corporation?

A. I do not understand you.

Q. How have you found the quotations of prices that are made to you by the Steel Corporation, contrasted with the prices that are made to you by their competitors?

A. Well, as a general proposition during fairly easy and normal conditions prices range approximately the same on the same class of goods; during times of depression and dull business outside manufacturers almost invariably made lower figures, and during unusually prosperous or boom times the Corporation's prices were usually a little lower, or they were slower in making the advances.

Q. Taking the last ten years all in all, has that comparative steadiness in price of the Steel Corporation been as advantageous to you as the more fluctuating prices of its competitors? That is to say, does the saving which you make by being able to buy cheaper from the Steel Corporation in boom times make up for the slightly larger price which you pay them in times of depression?

A. We feel that it compensates us; yes, sir.

Q. Do you find the quotations of the different manufacturers varying as a general rule?

A. Excepting as I explained a while ago, that during fairly easy normal conditions there is less variation than there is during periods of depression or during boom times.

Q. When business slackens up, times are much as they are at present, do you find that the competitors of the Steel Corporation are loath to cut the price?

A. They are much more active and much more ready to cut prices and to offer other inducements as to terms.

Q. How long has that condition of competition continued, Mr. Peden?

A. Ever since I started in business in 1890.

Q. Has there been any time since the Steel Corporation was organized in 1901, that it did not have competition in all these lines?

A. If there ever was such a time, it did not come to my knowledge. We have always been able to buy anything that we were accustomed to buying from the Steel Corporation from various other sources.

Q. How would you characterize the competition that you find for your business among the steel makers? Is it active and keen or otherwise?

A. Very active and very keen.

Q. Has there been among the manufacturers of these products any combination to fix prices on the products that you buy, so far as you have been able to discover?

MR. COLTON: I object to the witness being called on for an opinion on this subject, not being competent to answer it, he not knowing anything about the various agreements that have existed from time to time between these manufacturers. I object further on the ground that the witness is asked to express an opinion upon a state of facts not disclosed to the court.

(By request the stenographer repeated the pending question.)

THE WITNESS: Not to my knowledge.

By MR. REED:

Q. Mr. Peden, has the Steel Corporation, so far as you know, used any unfair means to hold its customers or to get customers away from its competitors?

MR. COLTON: I object on the ground that the witness is not shown to have any knowledge on the subject with respect to what the Steel Corporation has done, and I object to his opinion as irrelevant and incompetent.

THE WITNESS: No; not so far as I know.

By MR. REED:

Q. Does the Steel Corporation, or do its agents, sometimes learn of purchases that you make from competitors of the Steel Corporation?

A. Yes.

Q. What has been their attitude when they learned of such occurrences? Have they shown resentment in any way?

A. No resentment; they have shown disappointment sometimes.

Q. They have shown disappointment, I suppose, but have they made any threats to you?

A. Never. Absolutely none. There has never been a time when we did not feel perfectly free to buy from whomsoever we saw fit. We have always exercised that right.

Q. You are not tied up to the Corporation by any con-

tracts calling for your giving them your exclusive purchases, are you?

A. None whatever; no contracts except the ordinary 90-day contracts made from time to time.

Q. The ordinary purchasing contracts?

A. The ordinary purchasing contracts, specifying some certain tonnage at some certain price.

Q. In your opinion, Mr. Peden, has this policy of the Steel Corporation not to slice its prices to the point to which its competitors will go, and not to advance its prices to the heights at which its competitors advance theirs, had any influence for either good or evil on the trade of the country generally?

MR. COLTON: Just a moment. I object to the witness expressing any opinion upon the trade of the country generally, he not being shown to have any knowledge on that subject. I object to any opinion on his part except as to his own business, and I object to any expression of opinion in regard to his own business on the ground that it calls for a conclusion upon a state of facts not disclosed to the Court.

(By request the stenographer repeated the pending question.)

THE WITNESS: My individual idea is that it has had a beneficial effect.

By MR. REED:

Q. What is the reason for that?

A. It has made conditions somewhat more stable and more reliable to a jobber like myself, distantly removed from sources of supply. We feel a little safer in carrying a sufficiently large stock to accommodate our trade.

Q. Has it or has it not worked any injury to consumers generally through the country?

MR. COLTON: I object to his expressing any opinion in regard to consumers in the country generally. It is obvious that the witness does not know about consumers in the country generally. I object further to his expressing any opinion

in regard to any customers on the ground that it calls for a conclusion upon a state of facts not disclosed to the court.

THE WITNESS: I have no very definite opinion on that proposition. I do not think it has worked any injury, however, to the consuming trade.

By MR. REED:

Q. How does your company rank in size among the jobbers of iron and steel in the South, Mr. Peden?

A. We are one of the largest in our line in the South.

Q. Your principal offices are in Houston, I believe?

A. Houston. We have a branch office and a warehouse at San Antonio.

CROSS EXAMINATION

By MR. COLTON:

Q. I notice from the tonnage you have given, leaving out the witnesses that have been called in New Orleans as agents, that your tonnage exceeds that of all the other witnesses combined up to the present time.

MR. REED: Objected to as not cross examination.

By MR. COLTON:

Q. (Continuing) From which I assume that you are probably the largest purchaser, at least of sheet steel in the South. Do you know anyone else that compares with you in the tonnage of sheet steel that he purchases?

A. I do not know whether we are the largest or not. I think Mr. White, in New Orleans here, buys very close to the same tonnage, but that is merely superficial knowledge. I do not know.

Q. You buy about 6,000 to 7,000 tons of sheets, do you not?

A. Yes, sir; in that neighborhood. That includes, Mr. Colton, plates and tin plate.

Q. I was cutting out your 20 cent. for tin plate.

A. Oh, yes.

Q. So you buy about 6,000 to 7,000?

A. Yes; roughly; that is taking the 20 per cent. off.

Q. Would that be about right?

A. Yes; I should say so.

Q. Taking it generally, with all this great tonnage that you purchase, it has run in the neighborhood of about 75 per cent. from the United States Steel Corporation?

A. Yes; all the way through in that neighborhood, from the various constituent companies.

Q. I believe you said you had been in business since 1890?

A. We established the business in 1890, yes, sir.

Q. From what companies were you buying your sheets before the formation of the American Sheet Steel Company?

A. From the Cincinnati Corrugating Company, of Piqua, Ohio; the Apollo Iron & Steel Company, of Pittsburgh; the Wheeling Corrugating Company, of Wheeling, West Virginia, and two different companies at Niles, Ohio.

Q. You do not recall the names of those two companies?

A. I cannot recall the names, no, sir.

Q. Do you recall any other companies?

A. There were others, but I do not recall them at the moment.

Q. You do not recall how many of those different companies went into the American Sheet Steel Company and how many did not go in, that you purchased from?

A. No, sir; I do not remember.

Q. Take the tin plate: From what different companies were you purchasing your tin plate before the formation of the American Tin Plate Company?

A. From N. & G. Taylor Company, of Philadelphia, the old firm of Bruce & Cook, importers, of New York; from Charles S. Trench & Company, of New York.

Q. He was an importer, was he not?

A. He was a broker. He also sold domestic plates. But we got most of our tin plate from abroad until they began making it in Ohio, not so very long before—I think it was in the 80's—no, in the 90's. I knew nothing about it back in the 80's.

Q. Who were you buying from in 1897, if you recall.

A. In 1897 I think I was buying from these companies I mentioned.

Q. And other producers of tin plate?

A. There may have been others. I do not recall.

Q. What sort of tin plate were you buying from N. & G. Taylor?

A. Principally their old advertised brand, the N. & G. Taylor, Old Style.

Q. That old specialty of theirs?

A. Yes. That was the main commodity we bought from them. We also bought some of the lighter cheaper plates.

Q. Do you recall what price you were paying for tin plate in 1897 and 1898?

A. No, sir; I do not recall.

Q. What tonnage were you buying of tin plate at that time? Have you any idea?

A. No; we were small in those days.

Q. After the American Tin Plate Company was formed, leaving out specialties, you bought almost exclusively from them, did you not?

A. Omitting special brands, like the Taylor Old Style, we bought almost exclusively from the American Sheet Steel Company, and later——

Q. It was the American Sheet & Tin Plate Company that made and sold tin plates, was it not?

MR. REED: The American Tin Plate Company.

THE WITNESS: Yes.

By MR. COLTON:

Q. And the American Sheet Steel Company that originally made and sold sheet steel?

A. Yes.

Q. Taking the tin plate that you have purchased recently, leaving out the special brands, you have bought that almost exclusively from the American Tin Plate Company, have you not?

A. We have, yes.

Q. In 1901 what companies were you buying your wire products from?

A. That was just prior to the consolidations, you mean?

Q. Well, the American Steel & Wire Company—do you

recall about when that was formed? I do not know which consolidations you are speaking of.

A. No; I do not remember the year it was formed. I think it was about 1901, but I am not positive.

Q. Say you take the year that the Steel Corporation was formed, which was 1901; where were you buying your wire products in that year?

A. Principally from the old St. Louis Mill; I think it was known as the Consolidated Steel & Wire Company; and prior to that the Salem Wire Nail Company of Salem, Ohio.

Q. Those companies had competed for your business for a great many years?

A. Yes.

Q. Before they went into the American Steel & Wire Company?

A. Yes, sir. And just such conditions as that, if you will pardon me, are what largely led to our continuing to buy from the Corporation. Our old friends that we knew personally, and had corresponded with for years, went into the consolidation.

Q. The old companies that had competed with each other, had gone into the consolidation, and you continued to purchase from them?

A. Our relations were close and cordial, and we were glad to continue with them.

Q. You bought your wire products almost exclusively from the American Steel & Wire Company during those years?

A. Yes, sir.

Q. How long did that continue to be the case?

A. It still is the case. I hope it will continue to be for some time.

Q. You have not seen fit, then, to take up with any of their so-called competitors in the wire products?

A. Yes. We buy, as I stated, a small percentage from the other mills. Our location, however, is so far away, and deliveries are so slow, that we felt that it was bad policy to scatter.

Q. And a great big company making everything in enormous quantities, you want to deal with that kind of company?

A. I knew they could serve us better than the smaller concerns, with a smaller range of sizes and varieties.

Q. What tonnage do you buy in wire nails?

A. Wire nails, poultry netting and hay bale ties?

Q. You can not give the list?

A. No.

Q. You have just a general idea on those?

A. I just look at the totals at the end of each year, have them summed up; in the neighborhood of 3,000 tons per annum, the last four or five years.

Q. The last four or five years, what percentage of your wire nails have you gotten from the American Steel & Wire Company?

A. Wire nails?

Q. Wire nails.

A. Why, wire nails alone; probably 90 per cent.

Q. Now, of plain wire and barbed wire and fencing, about what percentage from the American Steel & Wire Company?

A. Well, a smaller percentage of those goods, perhaps 75 to 80 per cent., because we buy a great deal of fencing and netting and spring wire cloth from outside manufacturers.

Q. I was just going to ask you next about netting, which I was going to take up separately. You buy more of your netting outside?

A. Yes.

Q. Taking wire products as a whole, it would be about 80 per cent., according to your best estimate?

A. Seventy-five to 80 per cent.

Q. You have not made any specific figures on those?

A. No, sir; I have simply kept rough track of it, as the years went by.

Q. Now, can you name any other company in 1902 that you purchased from, other than the American Steel & Wire Company?

A. 1902?

Q. In wire products; yes.

A. No, I could not identify the manufacturer by years; I

knew it was scattering along. At different periods we bought from the Colorado Fuel & Iron and the Kokomo and the Alabama, but just what years those purchases were mostly made, I do not recall.

Q. The Colorado has sort of dropped out of the Texas market recently, has it not?

A. Yes, in the last several years we haven't heard much about them.

Q. And that other company you named as the one that keeps going under different names?

A. I judge so, from the testimony I overheard this morning.

Q. You only knew it as the Alabama Wire Nail Company?

A. I think it is the Alabama Steel & Wire.

Q. And as far as you are concerned, it has dropped out recently?

A. Yes; they do not solicit our business of late.

Q. Now, what was the first year that the Cambria ever solicited your business, if at all?

A. I am unable to tell you the first year; it has been doing so, though, for a long period.

Q. Are you pretty sure of that, the Cambria Company?

A. Well, just what year they began I do not recall, but my recollection is that it stretches back over a considerable period.

Q. What would you call a considerable period, seven or eight years?

A. Yes, perhaps seven or eight years.

Q. That would bring us back to what time, seven or eight years?

A. Well, seven from fourteen would be 1907.

Q. Would it surprise you to know that they did not begin the manufacture of wire until three years later than that?

MR. REED: Objected to as not cross examination.

MR. COLTON: I have asked the witness.

MR. REED: Well, I am objecting, as I have a right to do.

THE WITNESS: I did not understand your question to apply to wire alone.

By Mr. Colton:

Q. I see; I was speaking of wire. Of course they have been manufacturers of steel. I may have misled you, but I was speaking of wire.

A. I had in mind their other products. We have had correspondence with them about various items, and have been buying goods from them, it seems to me, for ten years.

Q. They have been steel manufacturers for that time?

A. But their product was rather heavier some years back than we bought; in fact, as I stated at the beginning, we do not handle structurals, nor heavy rails.

Q. Coming to wire, what was the first year they solicited your business in wire or wire products?

A. Well, that I don't recall.

Q. And you do not pretend to say that that was seven or eight years ago?

A. I do not think we ever bought any wire from them.

Q. And you do not recall now when, if at all, they solicited your business on wire?

A. No, sir.

Q. Take Jones & Laughlin; when did they first solicit your business in tin plate?

A. Well, I don't recall.

Q. Take the Youngstown Sheet & Tube Company; when did they first solicit your business in wire, if at all?

A. I think only within the last four or five years, possibly six years.

Q. When did you first get quotations, if at all, from the Pittsburgh Steel Company in wire?

A. I cannot fix the year, Mr. Colton, but they have been a factor in our market for a good while, and had a branch house at Galveston for quite a while.

Q. They have been selling longer than most of these other companies outside of the American Steel & Wire Company?

A. Yes; I think so.

Q. Now, you spoke of having continued your customer relation in respect to wire goods; was that true in respect of your sheets, that you kept on with your common sheets

with the old competitors that were taken over by the American Sheet & Tin Plate Company?

A. Yes.

Q. And the American Sheet Steel Company?

A. Yes; Eugene Pargney, president at present of the American Sheet & Tin Plate Company, acted as guide and showed me through the old Apollo mill before the consolidation. I still have a warm spot in my heart for him, and am glad to give him preference at equal figures.

Q. Now, you buy pipe? I think you testified about pipe; you get about 90 per cent. now from the National Tube Company?

A. About 90 per cent.

Q. Before the National Tube Company was formed, what different companies were you buying your pipe from?

A. I think we started in originally with the Crane Company, buying the range of sizes that they made.

Q. The Crane Company? Do you know when they first connected with the National Tube Company in the sale of pipe?

A. I do not.

Q. Do you know when, if at all, they were connected with the Standard Oil Company?

A. I do not know that they ever were.

MR. REED: Nor anybody else.

MR. COLTON: Maybe they were; I do not know. I am just asking the witness.

By MR. COLTON:

Q. Do you know whether they handle Standard Oil pipe now or not?

A. Standard Oil pipe?

Q. Yes.

A. No, sir; I don't know.

Q. You mentioned the Crane Company as one of the companies from which you were purchasing pipe. What other companies did you purchase pipe from before the National Tube Company was formed?

A. The Western Tube Company at Kewanee.

Q. That was taken over by the National Tube Company, wasn't it?

A. I have understood so, yes.

Q. Did you purchase from the National Tube Works Company too, before the National Tube Company was formed?

A. I don't remember as to that name; I knew it was the National Tube. I never noticed particularly or recalled particularly whether the word "works" was in the name.

Q. Were you purchasing at the same time from the National Tube Company or the Western Tube Company, or do you now recall?

A. I think so; when we first began to handle pipe.

Q. About when was that?

A. That was about 1898 or 1899.

Q. Did you purchase from the Pennsylvania Tube Company? That may not be the exact title, the Pennsylvania part of it.

A. I don't recall.

Q. And you have been purchasing in the neighborhood of 90 per cent. from the National Tube Company since the formation of that company?

A. Yes.

Q. I understood you to say that it had a good effect—I may not quote you exactly, and you may modify it in your answer—the disposition of the Corporation not to cut prices in ordinary easy times had a good effect on trade; is that correct?

A. The idea I meant to convey was that it created a more stable and dependable condition in the mercantile world, so far as we knew it.

Q. It created a more uniform and stable price?

A. Yes.

Q. And during those normal periods that you spoke of the price remained substantially uniform at times for a period of two or three months, I suppose?

A. Yes.

Q. And that is true of each of those different products about which you are testifying?

A. Largely so; yes.

Q. Now, leaving out your corrugated bars—that is a special brand of bars, is it not, reinforcing bars?

A. Yes; the corrugated bar made by the Corrugated Bar Company.

Q. That is a sort of patent?

A. Yes.

Q. Leaving those out, what percentage of your bars and hoop products do you get from the United States Steel Corporation?

A. Leaving those out, I suppose—well, with those in we buy about half and half, and with those out, I should say—this is rather an approximate guess, because I have no positive statistics on it—but perhaps 85 per cent.

Q. By "approximate guess" you mean your best estimate that you can give offhand?

A. My best recollection as to that, yes.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. You have just testified that the bars you get from this Corrugated Bar Company are a special patent bar?

A. Well, I am not positive as to special patent.

Q. It is a deformed bar, is it not?

A. It is a deformed bar, handled only by the Corrugated Bar Company; I do not know whether it is covered by a patent or not.

Q. And that deformed bar is made and sold in competition with the deformed bar made and sold by the Steel Corporation, isn't it?

A. Yes; with all other deformed bars and with twisted bars.

Q. And they get patents on the design?

A. Yes.

Q. And they are only specialties in the sense that the designs are different; is that correct?

MR. COLTON: I object to that as leading.

THE WITNESS: That is correct, a correct statement.

By MR. REED:

Q. You would seem to adopt in your answer a term used by the counsel for the Government in reference to the tin plate made by the N. & G. Taylor Company of Philadelphia. The term was "an old specialty." What is there either old or special about the tin plate made by the N. & G. Taylor Company?

A. They have been making this brand for a long number of years, and have it on a great many buildings, notably the United States Government buildings, and have advertised it under that name, until recently they have changed it to the Target and Arrow brand.

Q. It is just a name, of tin plate?

A. Yes; it is simply an advertising proposition, to create demand.

Q. It is very much like the brand "Apollo" made by the American Sheet & Tin Plate Company?

A. Yes.

Q. Is it special in any other sense than that, so far as you know?

A. Well, it is special as compared with the cheap eight-pound coating; it carries, as I recall, about 40 pounds of coating for protection.

Q. Is it or is it not in competition with the better grades made by the American Sheet & Tin Plate Company?

A. Yes. For instance, we handle a brand known as Peden's old method, which carries also 40 pounds of coating and is stamped and resquared in the same manner as theirs, and there are several dozen other brands of about the same grade and quality.

Q. All these special designs are in competition, one with the other?

A. Yes.

Q. And that is the sense in which you seemed to adopt those words "old specialty" used by counsel for the Government?

A. Exactly.

Q. There was some mention of the Colorado Fuel & Iron

Company dropping out of the Texas trade. Can you tell us the reason why the Colorado Company has ceased to compete there?

MR. COLTON: I object to the witness testifying about that; it is obviously not within the range of his knowledge.

THE WITNESS: Why, it was, as explained to me, on account of freight rates being against them.

By MR. REED:

Q. There was a change of freight rates?

A. Yes.

Q. That tended to cut them out of that territory?

A. Yes; and there was a lowering of the rates by water, which enabled us, in the lower part of the State to get nearly all of our material from the Pittsburgh district.

Q. In other words, there were two changes in the rates which just shifted the zone to which you belonged?

A. Yes.

MR. COLTON: I object to that on the ground that the witness has already testified that he was getting most of his products from the American Steel & Wire Company before this shifting.

MR. REED: That is all.

RECROSS EXAMINATION

By MR. COLTON:

Q. You did not mean to say that it had shifted your zone——

A. He was asking as to why they had ceased to solicit our business in that territory, and I gave that as the reason as I considered, for their change of attitude.

Q. Just what person in the Colorado company gave you as a reason for getting out of that territory that they had the freight rate against them?

A. Ira A. Paddock, their Texas salesman at that time.

Q. When did Mr. Paddock give you that information?

A. Oh, I cannot recall the year, but he continued to come to see us for two or three years, and admitted that he could

not get into the territory close to the Gulf, that the freight rates were against him.

Q. Just what did he say to you about that?

A. I cannot recall his exact words, Mr. Colton, but that was the sum and substance of it.

Q. He would not quote you?

A. No, I think he quoted, but he knew in advance what his competitors were doing, and realized that it was useless when his prices were too high.

Q. What was the largest percentage you ever bought from the Colorado Fuel & Iron Company in any year in wire products?

A. Well, for a short time—I do not recall in what year—our purchases from them exceeded those from the Corporation.

Q. How long did that continue?

A. Probably for six months.

Q. Aside from that period your testimony as to the general relation of purchases from the American Steel & Wire Company—your general percentage from the American Steel & Wire Company—applies to everything except that period of about six months?

A. Yes.

Q. Before that six months's period occurred, was there any change in freight rates?

A. There were changes going on all the time more or less.

Q. Was there any specific change that you now recall?

A. No, I do not recall any specific change.

Q. When did that six months' period occur?

A. I said a while ago that I could not recall the year.

Q. You could not give it approximately?

A. No. I wish I could. I do not even recall just how long since they have been soliciting our business actively.

Q. Do you recall, or have you any idea, when that freight change took place?

A. No; I do not know. You see, Mr. Colton, these heavy staples probably form about half of our business, and the balance of it is made up of a great many light smaller arti-

cles, and as the years have rolled by, I have not fixed those things in my mind; have not tried to do so.

Q. I understand by the heavier articles, you mean such things as pipe?

A. Yes; nails and bar iron, sheets, tin plate—very largely such articles as I have been describing as manufactured by the Steel Corporation.

Q. And you could not fix, now, the period approximately when that change of that six months occurred, and how much later it was after that period that that freight rate change came about?

A. No, sir; I could not fix that.

MR. COLTON: That is all.

By MR. REED:

Q. Was it several years or only a few months?

A. I don't know that I follow you, Mr. Reed. Was what several years?

Q. I mean, you have been examined indiscriminately about changes in freight rates and buying from the Colorado Fuel & Iron Company, as if one had caused the other. Did this change in the freight rates which kept the Colorado Fuel & Iron Company out of your district take place right after you had started to buy from them in large quantities?

A. Oh, no. This must have been several years—this was several years. In other words, if my memory serves me right, we bought in large quantities from them early in their history in Texas. It was not so very long after they began soliciting our business. Then, after a period of a number of years, three or four or five years, perhaps, they dropped out.

Q. It never occurred to you, until the suggestion was made here, that your buying from them was the cause of any change in their freight rates?

MR. COLTON: Do you understand any such suggestion to have been made by me?

MR. REED: No; I make the suggestion because you had examined in a way to indicate that you had it in your mind.

I thought I would take the bull by the horns and find out if there was any sense in it.

MR. COLTON: You do not expect him to answer it, do you?

MR. REED: I do; and I wish he would.

MR. COLTON: I object to the witness as incompetent, not having any knowledge in relation to the Steel Corporation's relations with railroads, in respect to making rates or otherwise.

MR. REED: It is just like the reference to the Standard Oil Company a little while ago.

THE EXAMINER: You may answer, please.

THE WITNESS: I never thought of or heard any such idea advanced.

MR. REED: That is all, Mr. Peden.

JOSEPH B. SIMMONS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Simmons?

A. My home is Pass Christian, Mississippi.

Q. What is your occupation?

A. President of Woodward, Wight & Company.

Q. And that company has its headquarters where?

A. At New Orleans.

Q. Has it any branch houses in the South?

A. No, sir.

Q. It does all its business from this city?

A. Yes, sir.

Q. How long have you been president of the company?

A. I have been president since 1909.

Q. Prior to that what was your office in the company?

A. You mean my connection with the company from the time I started?

Q. Yes.

A. I was first salesman, then I was assistant secretary, and then secretary and then vice-president.

Q. How long were you vice president before 1909?

A. About two years.

Q. How long were you secretary?

A. I think possibly about the same length of time.

Q. How long were you assistant secretary?

A. About a year.

Q. How long have you been familiar with the buying of steel materials that that company has done?

A. About ten years; that is, I have never bought, but I have supervised the buying.

Q. It has been done under your direction, has it?

A. Yes, sir.

Q. What kind of steel do you buy?

A. We buy tubular goods, plates, sheets, merchant bars.

Q. And wire products?

A. And wire products, yes, sir.

Q. About what tonnage of tubular goods do you buy annually?

A. About 3,500.

Q. About what tonnage of plates; that is, of 12 gauge and heavier.

A. We handle about 500 or 600 tons, I guess, 12 gauge and heavier.

Q. What tonnage of all kinds of sheets 13 gauge and thinner?

A. About 2,200 or 2,300.

Q. What tonnage of bars do you handle annually?

A. We handle steel and iron bars, about 4,500 tons of both.

Q. What percentage of that is steel and what percentage is iron?

A. About 2,000 tons steel. We handle more iron than we do steel.

Q. In wire products what is your tonnage?

A. About 3,000 tons.

Q. Do you buy on a competitive basis?

A. Yes, sir.

Q. All these products are bought on a competitive basis?

A. Yes, sir.

Q. About what percentage of your purchases are made from the Steel Corporation?

A. Of the total amount?

Q. Yes.

A. About 35 to 40.

Q. About 35 to 40 per cent. of all of the steel that you buy comes from the Steel Corporation?

A. Yes, sir.

Q. Taking these products separately, tubes; where do you get your tubes?

A. We buy about ten per cent. of our tubes from the National Tube Company.

Q. And 90 per cent. from its competitors?

A. Yes, sir.

Q. What competitors do you buy from chiefly?

A. We buy from the Central Tube Company, the Republic and the Youngstown.

Q. Do you buy from Spang-Chalfant?

A. We have not bought from Spang-Chalfant much, no, sir.

Q. Do you buy from the Mark Manufacturing Company?

A. Very little.

Q. Do those last two companies compete for your business?

A. Yes, sir.

Q. They make quotations to you, do they?

A. Yes, sir; they do.

Q. They send salesmen to visit you?

A. Yes, sir.

Q. In plates, where do you buy most of your supplies?

A. We have bought most of our heavy plates from the Portsmouth Steel Company.

Q. What other companies quote you on plates?

A. About all the others—Carnegie—I do not recall the names, but they all quote us.

Q. And on sheets where do you get most of your supply?

A. We get about 20 per cent. of our sheets from the American Sheet & Tin Plate Company. The balance we get from

the Inland Steel Company, the Youngstown—I do not know, but two or three other concerns. I don't remember the names.

Q. There are a number of companies quoting to you on sheets, are there?

A. Yes. We get quite largely from La Belle too.

Q. Where do you get your bars, Mr. Simmons?

A. We have got most of our steel bars—we have gotten about 25 per cent. of our steel bars from the Tennessee Coal, Iron & Railroad Company, and the balance, I believe, from the Southern Steel Company, the larger part from them.

Q. How about your wire; where do you get that?

A. We get principally all of our wire and nails from the American Steel & Wire Company.

Q. The percentage is very large in wire products from them?

A. Practically altogether, yes. That is what runs our general average of purchases from the Corporation up.

Q. What is the reason that your wire purchases from the Corporation run so much larger in percentage than your purchases of these other materials?

A. They carry a stock here.

Q. Is that warehouse that they keep in New Orleans any assistance to you?

A. Yes, sir. We get good service from them, and we do not have to carry the investment ourselves. We draw on the warehouse for stock as we need it.

Q. Is it an assistance to them in their competition? Does it give them an advantage over their competitors to have that stock here and to be able to make quick shipments?

A. Yes, sir; I think it does.

Q. Is there competition for your business in these different products that you have named among the different mills?

A. Yes, sir.

Q. Is that competition keen or otherwise?

A. It is pretty keen, I think.

Q. For how long has that been the case?

A. It has been the case ever since I have had anything to do with it; ten years back.

Q. How much is the annual business that your company does?

A. In these lines?

Q. Yes.

A. We do about 3¼—not in that line. We do probably 10 per cent. of our business in this line; ten per cent. of the volume of our business.

Q. That is in money volume?

A. Yes, sir; sales.

Q. Have you any objection to telling us about how much it runs in money in the course of a year; or would you prefer not to do it? I do not want to ask you if you would rather not do it.

A. I do not know; three and a quarter million——

Q. In steel products?

A. No; ten per cent. of that would be $325,000; that is roughly; probably more than that.

Q. Do you have competition yourself in your sales here? Are there other people in the same business as you are?

A. Yes, sir.

Q. As a result of that are you compelled to buy close?

A. Yes, sir.

Q. Do you have to run after these steel companies, or do they come to see you?

A. They usually come to see us.

Q. The salesmen come in pretty often?

A. Yes; pretty nearly every day.

Q. You never have to beg tonnage from them, do you?

A. No, sir; we have not yet.

Q. How have the service and treatment of the Steel Corporation been? Pretty fair?

A. Pretty fair, yes, sir.

Q. Do they ever hold up your low price orders when the price goes up?

A. No. My observation has been that they come nearer filling their orders in rotation than anyone else we have bought from.

CROSS EXAMINATION

By Mr. Colton:

Q. During the past four or five years you have not been buying these products personally, have you?

A. No, sir.

Q. What was the last contract you made for wire?

A. I don't know. I think we made a contract about last September. I believe our contract is about for 90 days. I am not sure about that.

Q. Did you make it?

A. I approve them, yes, sir.

Q. You approve the contracts?

A. Yes, sir.

Q. What quotations were submitted to you at the time that contract was made?

A. We had the prices from all other sources.

Q. What quotations were submitted to you personally in reference to that contract?

A. I don't know. I think this concern over here in Alabama——

Mr. Reed: The Gulf States?

The Witness: No.

Mr. Reed: The Atlanta Steel?

The Witness: No.

By Mr. Colton:

Q. The Standard, the Gulf, the Alabama Steel & Wire?

A. Is there a Southern Steel Company over there that sells nails? The Youngstown also; we had prices from them.

Q. I asked you: Did the Southern Company submit its price to you personally?

A. No; they submitted it to our buyer.

Q. Did that price come to you personally?

A. I know about it, yes, sir.

Q. Did you see that price yourself?

A. I think possibly the party was there—the representative was there, and made it verbally.

Q. Do you recall what that price was? If so, state it.

A. Let me see. I think it was $1.89; somewhere close to that.

Q. You would not be sure whether that was correct or not?

A. I may be five cents out of the way. I think that is about it: $1.89.

Q. Is that f. o. b. New Orleans?

A. Yes, sir.

Q. What was the Youngstown price?

A. I don't know.

Q. Do you recall whether the Southern Company submitted more than one price at that time?

A. No, sir.

Q. You don't know whether they did or not?

A. I don't think they did.

Q. You don't know whether the agent first got one price from them and then got another price?

A. Frequently they do that. We try to bring them down, of course.

Q. The first quotations do not always come to you?

A. No, sir; they usually are worked out before they are brought to me.

Q. Your purchasing agent works on them until he thinks he gets them in shape before they come to you?

A. Yes.

Q. And that has been the system in which you have purchased steel products during the last five or six years?

A. Yes. I do not know much about the details.

Q. You would not know of the first quotations, as to how many were alike and how many were different?

A. No, sir.

Q. You get them in what might be called a semi-finished form?

A. For instance, if there are telegraphic quotations, or quotations by letter, they are brought to me with the contract, and I see them that way.

Q. Do the oral quotations come to you? They are made to your agent, are they not, and you do not necessarily get

those? You do not get them until they have been worked up, as I understand it?

A. No, sir.

Q. How long was it that you had first-hand information as to the first quotations? During what period did you have first-hand information as regards the first quotations of the different wire companies and other companies quoting to you?

A. You mean since I have been with this Company?

Q. Yes.

A. About ten years.

Q. I mean, cutting out this period during which your purchasing agent gets the quotations, the first quotations, and then they are brought to your attention after that: I want to know during what period you had first-hand information as to the original quotations on wire or whatever they were.

A. I would probably at times get them before the buyer did, because they would come over my desk first.

Q. That is in regard to written quotations?

A. That is in regard to written quotations.

Q. Taking these oral quotations, which, as I understand, you sometimes receive, and your purchasing agent has worked them up preliminarily; I want to go back to the time that you had first-hand information as to the original quotations, oral or otherwise?

A. I do not think there would be any verbal quotations other than from one source.

Q. What source is that?

A. That would be this steel company—Southern Steel Company.

Q. Why would they quote orally instead of otherwise?

A. Their manager just laid around.

Q. Don't any other company have a manager down here?

A. I haven't seen any quoting nails, no, sir, outside of the American Steel & Wire Company.

Q. The American Steel & Wire Company might give a verbal quotation first and the Southern Company first; what other companies quoted you on wire in September, 1913?

A. We got prices from the Youngstown.

Q. The Youngstown is the only other one?

A. I believe that is all, yes.

Q. What was the quotation of the American Steel & Wire Company on that contract?

A. Their price is usually a little higher than we can buy them for in the open market, say five cents; say $1.94; on that $1.89 price, their price would be usually $1.94.

Q. Do you recall that that was the price of the American Steel & Wire Company?

A. That was the price, yes.

Q. Do you recall any other instance in which you purchased from any other company than the American Steel & Wire Company, in which you got more than five cents under the American Steel & Wire Company's price?

A. We have not bought any from any other source.

Q. You bought of them exclusively?

A. Yes.

Q. Do you recall any instance in which you had a quotation from any other company that was more than five cents under the base price of the American Steel & Wire Company? If so, give the time of the quotation and the number of instances.

A. We were able to buy last year, I think, about seven cents under the price of the American Steel & Wire Company.

Q. Under the contract price?

A. Yes, under the net price that we paid.

Q. But the contract was let at a different time from the time you got that quotation of seven cents under the contract price?

MR. REED: He has not said there was any contract.

MR. COLTON: I am asking whether that was the fact; he said contract price, I think.

THE WITNESS: You brought that point up.

By MR. COLTON:

Q. You said under the contract price.

A. What I meant was the net price; if I said "contract" I meant the net price we paid. We are usually covered by

contract with the American Steel & Wire Company on the contract they had with us.

Q. Then there was a contract in existence at the time?

A. I think so; we are usually covered, yes.

Q. How many months had that been made before this?

A. I think about 90 days.

Q. How many months before, or how many weeks, before the time you made that contract before you got that quotation of seven cents under?

A. We are able at all times to shade the price of the American Steel & Wire Company five cents a keg; any time in the last several years. For instance, I would buy 5,000 or 10,000 kegs or packages, for instance; we could shade the price that much always.

Q. For how many years?

A. Oh, the past several years.

Q. Do you remember any other instance in which you could shade it more than five cents?

A. No, sir; I should say the average was five cents in the last several years.

Q. And that is the only instance in which you recall that you could do it more than five cents?

A. I think so, yes.

Q. There has never been a time in which the others put the price enough under the American Steel & Wire Company's price to lead you to take your trade away from the American Steel & Wire Company?

A. We have felt very much tempted to do it quite often.

Q. But you have never done it?

A. No, sir.

Q. What tonnage of wire were you buying in 1901?

A. Why, I am not familiar with it at that time.

Q. When did you first become familiar with wire purchases?

A. About 1903.

Q. About what was your tonnage in 1903?

A. Oh, I judge our tonnage was, say, 1,000 tons; that is merely a guess.

Q. And in 1904?

A. It would range from 1,000 to 2,000 tons from 1903 up to 1907.

Q. And in 1907 what was it?

A. In 1907 it was 2,000 tons, and in 1908 it dropped down to about 1,500.

Q. 1909?

A. In 1909 it went up to about 2,000 again.

Q. 1910?

A. About the same in 1910.

Q. How much did you say, about?

A. About 2,000 tons.

Q. In 1911?

A. Then it probably increased 200 or 300 tons.

Q. In 1912?

A. In 1912 about the same, I guess.

Q. 1913?

A. I just gave you that.

Q. You mean you just gave me that, or do you mean you did on your direct examination?

A. About 3,000 tons, yes.

Q. Did you get a discount from the American Steel & Wire Company?

A. Yes.

Q. What was it?

A. Two per cent.

Q. And in your contracts you have a minimum specified and a maximum specified, do you?

A. Yes.

Q. I was speaking of wire when I made that statement.

A. Yes.

Q. What size tube and pipe did you buy; up to eight inches?

A. Yes.

Q. Didn't you buy anything beyond eight inches?

A. We bought up to twelve inches.

Q. How much pipe did you buy between eight and twelve inches; that is, nine, ten and eleven?

A. I could make a guess; I presume 500 or 600 tons; I didn't keep that separate.

Q. Do you know what proportion of your pipe runs between eight and twelve inches, that you bought from the National Tube Company?

A. No, sir.

Q. You handle what is known as small pipe?

A. Yes; we have all sizes.

Q. All sizes below twelve inches?

A. Yes.

Q. When did you first begin to buy pipe?

A. I am familiar with it for ten years back; we have been handling it that long, and longer.

Q. About ten years ago? You began in 1904, then?

A. Yes; or 1903. That is, I am familiar with it from that time; we were handling it, of course, before then.

Q. What companies did you buy your pipe from in 1903?

A. I really do not know; I don't remember that far. I think we bought principally from Spang-Chalfant at that time, and we bought also from the Western Tube Company.

Q. The Western Tube Company was absorbed by the National Tube Company, wasn't it?

A. I believe so; I understand from this testimony; yes.

Q. Do you know what proportion you bought from Spang-Chalfant and what proportion you bought from the Western Tube Company?

A. No, sir.

Q. In 1905 from what companies were you buying?

A. About the same.

Q. And in 1906?

A. Then we bought also during those periods, bought largely, I think, from 1905—if I remember—from the National Tube Company, and we bought from the National Tube Company very largely up to about 1910.

Q. Up to about 1910?

A. Yes; we bought 75 per cent. of our requirements from the National Tube Company up to about 1910.

Q. From 1903, then, about the date that you began, up to 1910—do you mean until the close of 1910 that you bought 75 per cent. from the National Tube Company?

A. I think we did, yes.

Q. And then in 1910 you quit the National Tube Company to a large extent, in pipe?

A. No, sir; we didn't quit them. Well, in a way, yes. We bought from outside sources. I think in 1910 we bought largely from the Tube Company. We really had dropped out, I think, in 1911. Say 75 per cent. of our purchases in 1910, I should say, was from the Tube Company.

Q. Up to about the time of that great cut that followed Mr. Topping's announcement, you were purchasing about 75 per cent. of your tube products from the Steel Corporation?

A. Yes. You mean the Republic—the cut by the Republic?

Q. Yes, the Republic Iron & Steel.

A. Yes.

Q. Now, take your bar steel; what year did you begin to buy bar steel?

A. Why, we did not do much in steel bars until about—we began to stock about 1904 or 1905—1905, I guess; we handled them in a very small way.

Q. Would you give your tonnage along about 1904, 1905 and 1906, roughly?

A. I should say 500 tons would be about it.

Q. During the period 1904, 1905 and 1906 from what companies were you buying your steel bars?

A. I think we bought from the Tennessee Coal, Iron & Railroad Company largely until last year; until the early part of 1913 we bought principally from them, I think, the T. C. I.—the Steel Corporation.

Q. Principally from the Tennessee Company or from the whole Steel Corporation?

A. Yes, the whole Steel Corporation.

Q. During the period from 1904 to 1907, when the Tennessee Company was taken over by the Steel Corporation, the Carnegie and the Illinois Company and the Tennessee from time to time quoted you on bars, did they?

A. I think so, yes.

Q. And they were in competition with one another for your business during that period?

A. I could not tell; I could not remember whether they were or not.

Q. But they quoted you?

A. They quoted us, I think, yes.

Q. Do you remember whether you bought any bars from the Carnegie Company during the period from 1904 to 1907?

A. I think we did.

Q. Do you recall whether you bought any from the Illinois Steel Company during that period, steel bars?

A. I do not. I don't recall that.

Q. What per cent. of your steel bars did you buy from the Corporation up to and including 1912, as near as you can give it?

A. Why, up to 1912, I think we must have bought probably 75 per cent. of our steel bars; we did not handle them very largely. We do not handle concrete bars at all; we handle only merchant bars. Our tonnage is much smaller on that account.

Q. Now, when did you begin to buy sheets?

A. We have handled sheets for ten years.

Q. You began then in 1903 or 1904?

A. Yes.

Q. What company did you purchase your sheets from in 1903 and 1904?

A. I think we were purchasing then principally from the Youngstown and the Inland Steel and—well, I don't know, two or three others.

Q. Could you give me the percentage during 1903, 1904 and 1905 that you were purchasing from Youngstown?

A. No, sir.

Q. Or from the American Sheet & Tin Plate Company?

A. I can give it to you I think for 1907; we were purchasing about 40 or 50 per cent. of our requirements in galvanized sheets from the Youngstown.

Q. That is the first year you can give the percentage in sheets?

A. Yes; I do not remember any further back.

Q. And you don't remember what percentage you got from

the American Sheet & Tin Plate Company in that year in sheets?

A. No.

Q. In 1908 what was it?

A. I think we bought largely about the same proportion from Youngstown then; for about three years we mostly bought from Youngstown.

Q. In 1907, 1908 and 1909 you bought mostly from Youngstown?

A. Yes.

Q. In 1910 from what company did you buy chiefly?

A. I think we bought probably half of our requirements for that year from the American Sheet & Tin Plate Company; in 1911 about the same.

Q. And in 1912?

A. In 1912 I think about the same, yes, and the last year about 25 per cent.

Q. Well, up to 1913 the percentage of these different products that you got from the Corporation was very much greater than it was during 1913; that is correct, is it not?

A. I think so, yes.

Q. And the figures that you have given on the separate products would show about what percentage would be from the Corporation, taking it from the period that you began to buy?

A. Yes.

Q. I neglected to ask you what percentage of your plates you got from the Corporation in 1911 and 1912?

A. We have bought very few plates, if any, from the Corporation.

Q. Your plate purchases have been very insignificant as compared with your other tonnage?

A. Yes.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Do you know competition when you see it?

A. I think so, yes.

Q. Has the Steel Corporation competition?
A. Have they competition?
Q. Yes.

MR. COLTON: Just a moment. I object to a general statement on the part of the witness on the ground that it calls for a conclusion upon a state of facts not disclosed to the court.

THE EXAMINER: You may answer.

MR. COLTON: And I object on the further ground that the witness has not been shown to have general knowledge concerning any matter except in regard to that which affects his own business.

By MR. REED:
Q. Will you answer, please?
A. They have competition, yes, very keen.

RECROSS EXAMINATION

By MR. COLTON:
Q. Do you know what percentage of the wire rod business they controlled in 1910, the Corporation?
A. By wire rods you mean nails and wire, as we understand them?
Q. Take nails and wire, what percentage did they control?
A. Here?
Q. No; in the United States. Oh, you were only speaking locally, I suppose?
A. Only locally, yes.
MR. COLTON: All right; that is all.

(Whereupon an adjournment was taken until to-morrow, Thursday, January 15, 1914, at 10:30 o'clock a. m.)

ONE HUNDRED AND FORTY-SECOND DAY.

MAISON BLANCHE,
New Orleans, Louisiana,

Thursday, January 15, 1914.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the Defendants, MR. REED.

PAUL H. LAROUSSINI

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. You live in New Orleans, do you not?

A. I do.

Q. How long have you lived here?

A. I was born here. I have lived here all my life except when I was away at college.

Q. What is your occupation?

A. President of the A. J. Nelson Manufacturing Company.

Q. How long have you been president of that company?

A. Since 1908.

Q. Since what time in 1908?

A. September, I think.

Q. What business is that company engaged in?

A. General sheet metal business.

Q. You buy a large quantity, then, of sheet metal of various kinds?

A. Yes. We buy steel sheets, sheet copper and black sheets.

Q. About how many tons of steel sheets do you buy annually?

A. I should judge about 1,500.

Q. Do you buy both the flat and the corrugated sheets?

A. Yes.

Q. And both black and galvanized?

A. Black and galvanized.

Q. Of the different kinds of sheets, what kind do you buy the most of?

A. I think we buy more galvanized than the other.

Q. And more corrugated than flat?

A. Yes, sir; more corrugated than flat.

Q. That galvanized corrugated sheet is used very largely for building purposes here, is it not?

A. Yes; very largely.

Q. Have you been active in the buying for your company?

A. I have been active since that time.

Q. That is since September, 1908?

A. Yes.

Q. You have had personal charge of the buying of sheet metal?

A. Yes.

Q. Do you buy on a competitive basis, Mr. Laroussini?

A. Always.

Q. About what percentage of your steel sheets do you get from the United States Steel Corporation or its subsidiaries?

A. Well, I should judge in the neighborhood of 30 per cent.

Q. And is there real competition for your business?

A. I have always found it so.

Q. Tell us the names of some of the companies that compete with the Steel Corporation, Mr. Laroussini, for your business?

A. We have done business with the Stark Rolling Mill, the Seneca Iron & Steel Company, the Wheeling Corrugating Company, the Newport Rolling Mills, the old Ashland Sheet Mill, which was succeeded by the Jobe Iron & Steel Company.

Q. Let me suggest some: the Youngstown Sheet & Tube Company?

A. No.

Q. Have they quoted to you?

A. We seldom get quotations from them. We have the quotations right along from the Trumbull people, and also the Apollo Steel Company, which is a new mill.

Q. From the La Belle Steel Company?

A. Yes; we have gotten quotations from them, but we have never given them any business.

Q. From the American Rolling Mill Company of Middletown, Ohio?

A. We get quotations, but we have never placed any business with them.

Q. From the Brier Hill Steel Company or its predecessor, the Niles Corrugating Company?

A. We used to do business with them back in 1906 and 1907. Although I was not actively the buyer I was supervising some of the purchasing.

Q. Do they still solicit your business?

A. Yes; they do.

Q. Do they submit quotations to you?

A. The Brier Hill, you refer to?

Q. Yes.

A. Yes.

Q. How about Fannin & McCullough?

A. They are the successors to the Jobe Iron & Steel Company, are they not?

Q. The two companies are connected in some way?

A. Yes.

Q. Besides that the American Sheet & Tin Plate Company, which is a subsidiary of the United States Steel Corporation?

A. Yes; we purchase from them.

Q. Your purchases have run about thirty per cent. from the Steel Corporation?

A. In that neighborhood. I should judge about that. I have never figured it out.

Q. Take the quotations that are received from these different competitors; do they vary or are they all alike?

A. I have found them to vary.

Q. How long has that been so?

A. As long as my experience in buying has existed.

Q. Throughout that period when you have had direct connection with the buying, has the competition for your business been keen or otherwise?

A. It has been pretty active. They have all been after it.

Q. You have competition, I suppose, in the work that your company does?

A. Oh, yes; more than we want.

Q. And you have to buy close, I suppose?

A. As close as we possibly can.

Q. And in that way you have become something of a judge of competition yourself?

A. Of course, we have to take quality into consideration also.

Q. Do you believe that there is a genuine competition for your business in sheets?

A. I do.

Q. Have you seen any indication that the Steel Corporation had a monopoly of the manufacture of sheet steel in the United States?

MR. COLTON: I object on the ground that the witness has not been shown to have any knowledge except as regards his own business; that the question is too general, and calls for a conclusion upon a state of facts not disclosed to the Court.

THE WITNESS: No; it has not been my observation.

By MR. REED:

Q. Have you observed any indication of any restraint of trade in sheets?

MR. COLTON: I object on the ground that the question calls for a conclusion of the witness upon a state of facts not disclosed to the Court, and also calls for a conclusion involving a mixed question of law and fact as to which the witness is incompetent; and I also object to the witness as incompetent.

THE WITNESS: I have always found that there was competition.

CROSS EXAMINATION

By Mr. Colton:

Q. Of all your steel purchases taken as a whole, you buy about 40 per cent. from the Steel Corporation?

Mr. Reed: He said 30.

The Witness: Thirty. I haven't figured this out; this is approximate.

By Mr. Colton:

Q. I ask you of your steel purchases as a whole, do you not buy about 40 per cent. from the Steel Corporation?

A. No; my belief is in the neighborhood of 30 per cent.; I may be off on a certain percentage; I don't know exactly.

Q. What tonnage did you buy in 1908, of steel products?

A. Well, to answer that question would be mere guesswork.

Q. In 1909 it would be guesswork also?

A. I haven't kept a record of the tonnage that I purchased.

Q. What tonnage did you buy from the American Sheet & Tin Plate Company? That would be guesswork for each of those years?

A. I should judge, as I said before, approximately 30 per cent.; in that neighborhood.

Q. Will you give me the tonnage that you bought in 1908 from the American Sheet & Tin Plate Company?

A. No, sir; I can not.

Q. Can't you approximate it?

A. No. I will say 30 per cent. of my total purchases, I should judge.

Q. You can not approximate the tonnage from the American Sheet & Tin Plate Company, however? If you can, give it to me as near as you can.

A. No, I couldn't give any estimate on that.

Q. You can not give the total for any of those years?

A. No, sir.

Q. And as I understood your answer, your estimate of the total tonnage would be guesswork, and your approximate ton-

nage from the American Sheet & Tin Plate Company would be guesswork?

A. Yes.

(Whereupon an adjournment was taken until Monday, January 19, 1914, at 10:30 o'clock a. m., at St. Louis, Mo.)